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The unrepealed and unexpired Acts of the council of India from 1834 to 1870 vol. III

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THE

PEALED AND UNEXPIRED

ACTS

OF THE

TIVE COUNCIL OF INDIA,

m 1834 to 1870 inclusive,

WITH

CTS, MARGINAL AND FOOT NOTES,

AN ELABORATE INDEX,

L T OF ALL ACTS REPEALED.

ORG T FAGAN, Esq.,

AW, A UDGE OF THE CALCUTTA COURT OF
CAUSES.

IN FOUR VOLUMES.

VOL. III.

HYMAN & Co PUBLISHERS CALCUTTA

FRED. LEWIS, CALCUTTA [illegible] COMPANY, LI[illegible]

5, COUNCIL HOUSE [illegible]ET.

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ACT NO. XXVII. OF 1866.

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An Act to consolidate and amend the law relating to the conveyance and transfer of property in British India vested in Mortgagees and Trustees, in cases to which English law is applicable.

Whereas it is expedient to consolidate and amend the laws relating

Preamble.

to the conveyance and transfer of moveable and immoveable property in British India vested in Mortgagees and Trustees, in cases to which English law is applicable; It is hereby enacted as follows:

Acts repealed.

I. Section 3 of Act XXIV. of 1841 *(for the greater uniformity of the law administered by Her Majesty's Supreme Courts with that administered in England, in regard to the undisposed residue of the effects of Testators; illusory appointments; the transfer of estates by persons under disabilities pursuant to the direction of Courts, and the better management of the property of such persons, and other like matters)*, and so much of Act XIV. of 1852 *(for extending the provisions of Acts XXIV. of* 1841 *and XVII. of* 1843 *to the Straits' Settlement)* as extends the provisions of the said Section to the Settlement of Prince of Wales' Island, Singapore, and Malacca, are hereby repealed: Provided that all proceedings under the said Section or Act commenced before this Act comes into operation, may be proceeded with under the said Section or Act or according to the provisions of this Act, as shall be thought expedient by the person by whom they were commenced.

Interpretation.

II. In this Act—unless there be something repugnant in the subject or context—

"Immoveable property."

"Immoveable property" shall extend to and include messuages, tenements, and hereditaments, corporeal and incorporeal, of every tenure or description, whatever may be the estate or interest therein:

"Stock."

"Stock" shall mean any fund, annuity, or security transferable in books kept by any Company or Society established or to be established, or transferable by deed alone, or by deed accompanied by other formalities, and any share or interest therein. It shall also include shares in ships registered under the Merchant Shipping Act, 1854, or at any port in British India:

"Hold" and "Holding."

"Hold" and "Holding" shall be applicable to any vested estate, whether for life or of a greater or less description, in possession, futurity, or expectancy, in any immoveable property:

"Contingent right."

"Contingent right" as applied to immoveable property shall mean a contingent or executory interest, or possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained; also a right of entry, whether immediate or future, and whether vested or contingent:

"Convey." "Conveyance."

"Convey" and "Conveyance" applied to any person, shall mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another immoveable property which such person holds, or in which he is entitled to a contingent right either for the whole estate of the person conveying or disposing, or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, including the acts to be performed by married women and tenants in tail in accordance with the provisions of Act XXXI. of 1854, *(to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land in cases to which the English law is applicable)*:

"Transfer" shall mean the execution and performance of every deed and act by which a person entitled to stock or Government securities can transfer such stock or Government securities from himself to another:

"Transfer."

"High Court" shall mean every Court now or hereafter established under the Statute 24 and 25 Vict., chap. 104, and also the Chief Court of the Punjab, or such one or more Judges of the said Courts respectively as shall be appointed by the Chief Justice or the Senior Judge, as the case may be, to entertain applications and make orders under this Act:

"High Court."

"Trust" shall not mean the duties incident to an estate conveyed by way of mortgage; but with this exception, the words "Trust" and "Trustee" shall extend to and include implied and constructive trusts, and shall extend to and include cases where the Trustee has some beneficial estate or interest in the subject of the trust, and shall extend to and include the duties incident to the office of executor or administrator of a deceased person:

"Trust" "Trustee."

"Lunatic" shall mean any person who shall have been found by due course of law to be of unsound mind and incapable of managing his affairs:

"Lunatic."

"Person of unsound mind" shall mean any person not a minor who, not having been found to be a lunatic, shall be incapable from infirmity of mind to manage his own affairs:

"Person of unsound mind."

In the case of a Will made or an intestacy occurring before the 1st day of January, 1866, "Heir" shall mean the person claiming an interest in the immoveable property of a deceased person under the laws concerning descent applicable to such property: and "Devisee" shall, in addition to its ordinary signification, mean the heir of a devisee and the devisee of an heir, and generally any person claiming an interest in the immoveable property of a deceased person, not as heir of such deceased person, but by a title dependent solely upon the operation of the laws concerning devise and descent:

"Heir" and "Devisee."

In the case of a Will made or an intestacy occurring on or after the 1st day of January, 1866, "Heir" shall mean any person claiming an interest in the immoveable property of a deceased person under the rules for the distribution of an intestate's estate: and "Devisee" shall mean any person taking immoveable property under a bequest, and any person, other than an executor or administrator, claiming an interest in immoveable property, not as entitled thereto under the said rules, but by a title dependent solely upon the operation of the laws concerning intestate and testamentary succession:

"Mortage" shall be applicable to every estate or interest in immoveable or moveable property which would in the High Court be deemed merely a security for money:

"Mortgage."

"Person" shall include any Company or Association, or body of persons whether incorporated or not:

"Person."

Words importing the singular number only shall extend to several persons or things; words importing the plural number shall apply to one person or thing; words importing the masculine gender shall extend to a female.

Number. Gender.

The High Court to have jurisdiction in what cases.

III. The powers and authorities given by this Act to the High Courts shall and may be exercised only in cases to which English law is applicable, and may be exercised with respect to property within the local limits of the extraordinary original civil jurisdiction of the said Courts respectively.

High Court may convey estates of lunatic Trustees and Mortgagees;

IV. When any lunatic or person of unsound mind shall hold any immoveable property upon any trust or by way of mortgage it shall be lawful for the High Court to make an order that such property be vested in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the Trustee or Mortgagee had been sane, and had duly executed a conveyance of the property in the same manner for the same estate.

And may convey contingent rights.

V. When any lunatic or person of unsound mind shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said High Court shall direct: and the order shall have the same effect as if the Trustee or Mortgagee had been sane, and had duly executed a deed so releasing or disposing of the contingent right.

High Court may transfer stock or Government securities of lunatic Trustees and Mortgagees.

VI. When any lunatic or person of unsound mind shall be solely entitled to any stock or Government securities, or to any thing in action upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities or to receive dividends, interest, or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof: and when any person or persons shall be entitled jointly with any lunatic or person of unsound mind to any stock or Government securities or thing in action upon any trust or by way of mortgage, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, or to sue for and recover such thing in action or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any other person or persons the said High Court may appoint.

Power to transfer stock or Government securities of deceased persons.

VII. When any stock or Government securities shall be standing in the name of any deceased person whose executor or administrator is a lunatic or person of unsound mind, or when any thing in action shall be vested in any lunatic or person of unsound mind as the executor or administrator of a deceased person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest or income thereof, or to sue for and recover such thing in action, or any interest, in respect thereof, in any person or persons the said Court may appoint.

VIII. Where any minor shall hold any immoveable property

High Court may convey estates of minor Trustees and Mortgagees.

upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the minor Trustee or Mortgagee had attained his majority, and had duly executed a conveyance of the property in the same manner for the same estate.

Contingent rights of minor Trustees and Mortgagees.

IX. Where any minor shall be entitled to any contingent right in any immoveable property upon any trust or by way of mortgage, it shall be lawful for the High Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the minor had attained his majority, and had duly executed a deed so releasing or disposing of the contingent right.

High Court may convey the estate of a Trustee out of the jurisdiction of the Court.

X. When any person solely holding any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the Trustee had duly executed a conveyance of the property in the same manner and for the same estate.

High Court may make order in cases where persons hold immoveable property in trust jointly with persons out of jurisdiction of Court, &c.

XI. When any person or persons shall hold any immoveable property in trust jointly with a person not wtthin the jurisdiction of the High Court, or who cannot be found, it shall be lawful for the said Court to make an order vesting the property in the person or persons so jointly holding, or in such last-mentioned person or persons together with any other person or persons, in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the Trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance of the property in the same manner for the same estate.

Contingent rights of Trustees.

XII. When any person solely entitled to a contingent right in any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order wholly releasing such property from such contingent right, or disposing of the same to such person or persons as the said Court shall direct; and the order shall have the same effect as if the Trustee had duly executed a conveyance so releasing or disposing of the contingent right.

High Court may make order in cases where persons are jointly entitled with others out of the jurisdiction of the Court to a contingent right in immoveable property.

XIII. When any person jointly entitled with any other person or persons to a contingent right in any immoveable property upon any trust shall be out of the jurisdiction of the High Court, or cannot be found, it shall be lawful for the said Court to make an order disposing of the contingent right of the person out of the jurisdiction, or who cannot be found, to the person or persons so jointly entitled as aforesaid, or to

such last-mentioned person or persons together with any other person or persons; and the order shall have the same effect as if the Trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance so releasing or disposing of the contingent right.

When it is uncertain which of several Trustees was the survivor.

XIV. Where there shall have been two or more persons jointly holding any immoveable property upon any trust, and it shall be uncertain which of such Trustees was the survivor, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the survivor of such Trustees had duly executed a conveyance of the property in the same manner for the same estate.

When it is uncertain whether the last Trustee be living or dead.

XV. Where any one or more person or persons shall have held any immoveable property upon any trust, and it shall not be known, as to the Trustee last known to have held such property, whether he be living or dead, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the last Trustee had duly executed a conveyance of the property in the same manner for the same estate.

When Trustee dies without an heir.

XVI. When any person holding any immoveable property upon any trust shall have died intestate as to such property without an heir, or shall have died, and it shall not be known who is his heir or devisee, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct; and the order shall have the same effect as if the heir or devisee of such Trustee had duly executed a conveyance of the property in the same manner for the same estate.

Contingent right of unborn Trustee.

XVII. When any immoveable property is subject to a contingent right in an unborn person, or class of unborn persons who, upon coming into existence, would in respect thereof hold such property upon any trust, it shall be lawful for the High Court to make an order which shall wholly release and discharge such property from such contingent right in such unborn person or class of unborn persons, or to make an order which shall vest in any person or persons the estate or estates which such unborn person or class of unborn persons would, upon coming into existence, hold in such property.

Power to make an order for vesting the estate on refusal or neglect of a Trustee to convey or release.

XVIII. In every case where any person holds or shall hold jointly or solely any immoveable property, or is or shall be entitled to a contingent right therein upon any trust, and a demand shall have been made upon such Trustee by a person entitled to require a conveyance of such property or a duly authorized agent of such last-mentioned person, requiring such Trustee to convey the same, or to release such contingent right, it shall be lawful for the High Court, if the said Court shall be satisfied that such Trustee has wilfully refused or neglected to convey the said property for the space of 28 days after such demand, to make an order vesting such property in such person or persons, in such manner and for such estate as the Court shall direct,

or releasing such contingent right in such manner as the Court shall direct; and the said order shall have the same effect as if the Trustee had duly executed a conveyance of the property, or a release of such right, in the same manner and for the same estate.

Power to convey in place of Mortgagee.

XIX. When any person to whom any immoveable property has been conveyed by way of mortgage, shall have died without having entered into the possession or into the receipt of the rents and profits thereof, and the money due in respect of such mortgage shall have been paid to a person entitled to receive the same, or such last-mentioned person shall consent to an order for the re-conveyance or vesting of such property, then in any of the following cases, it shall be lawful for the High Court to make an order vesting such property in such person or persons in such manner and for such estate as the said Court shall direct, that is to say,—

When an heir or devisee of such mortgagee shall be out of the jurisdiction of the High Court, or cannot be found:

When an heir or devisee of such mortgagee shall, upon a demand by a person entitled to require a conveyance of such property, or a duly authorized agent of such last-mentioned person, have stated in writing that he will not convey the same, or shall not convey the same for the space of 20 days next after a proper deed for conveying such property shall have been tendered to him by a person entitled as aforesaid, or a duly authorized agent of such last-mentioned person:

When it shall be uncertain which of several devisees of such mortgagee was the survivor:

When it shall be uncertain as to the survivor of several devisees of such mortgagee, or as to the heir of such mortgagee whether he be living or dead:

When such mortgagee shall have died intestate as to such property and without an heir, or shall have died, and it shall not be known who is his heir or devisee:

And the order of the said High Court made in any one of the foregoing cases, shall have the same effect as if the heir or devisee, or surviving devisee, as the case may be, had duly executed a conveyance of the property in the same manner and for the same estate.

Power to appoint a person to convey in certain cases.

XX. In every case where the High Court shall, under the provisions of this Act, be enabled to make an order having the effect of a conveyance of any immoveable property, or having the effect of a release or disposition of the contingent right of any person or persons, born or unborn, it shall also be lawful for the High Court, should it be deemed more convenient, to make an order appointing a person to convey such property or release or dispose of such contingent right; and the conveyance, or release or disposition of the person so appointed, shall, when in conformity with the terms of the order by which he is appointed, have the same effect, in conveying the property, or releasing or disposing of the contingent right, as an order of the High Court would in the particular case have had under the provisions of this Act. In every case where the High Court shall, under the provisions of this Act, be enabled to make an order vesting in any person or persons the right to transfer any stock transferable in the book of any Company or Society established or to be established, it shall also be lawful for the High Court, if it be deemed more convenient, to make an order direct-

ing the Secretary or any Officer of such Company or Society at once to transfer or join in transferring the stock to the person or persons to be named in the order; and this Act shall be a full and complete indemnity and discharge to all Companies or Societies and their officers and servants for all acts done or permitted to be done pursuant thereto.

When Trustees of stock of Government securities out of the jurisdiction.

XXI. When any person or persons shall be jointly entitled with any person out of the jurisdiction of the High Court, or who cannot be found, or concerning whom it shall be uncertain whether he be living or dead, to any stock or Government securities or thing in action upon any trust, it shall be lawful for the said High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, or to sue for or recover such thing in action or any interest in respect thereof, either in such person or persons so jointly entitled as aforesaid, or in such last-mentioned person or persons together with any person or persons the said Court may appoint. When any sole Trustee of any stock, Government securities, or thing in action shall be out of the jurisdiction of the said Court, or cannot be found, or it shall be uncertain whether he be living or dead, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in any person or persons the said Court may appoint.

When Trustee of stock, &c., refuses to transfer.

XXII. Where any sole Trustee of any stock, Government securities, or thing in action, shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, or to sue for or recover such thing in action, or any interest in respect thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person absolutely entitled thereto, it shall be lawful for the High Court to make an order vesting the sole right to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, or to sue for and recover such thing in action, or any interest in respect thereof, in such person or persons as the said Court may appoint.

When one of several Trustees of Stock, &c., refuses to transfer or receive and pay over Dividends.

XXIII. Where any one of the Trustees of any stock, Government securities, or thing in action, shall neglect or refuse to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, or to sue for or recover such thing in action according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by such person, it shall be lawful for the High Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, or to sue for and recover such thing in action, in the other Trustee or Trustees of the said stock, Government securities, or thing in action, or in any person or persons whom the said Court may appoint jointly with such other Trustee or Trustees.

When stock, &c., is standing in the name of a deceased person.

XXIV. When any stock or Government securities shall be standing in the sole name of a deceased person, and his executor or administrator shall be out of the jurisdiction of the High Court, or cannot be found, or it shall be uncertain whether such executor or administrator be living or dead, or such executor or admininistrator shall neglect or refuse to transfer such stock or Government securities, or receive the dividends, interest, or income thereof, according to the direction of the person absolutely entitled thereto, for the space of twenty-eight days next after a request in writing for that purpose shall have been made to him by the person entitled as aforesaid, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, in any person or persons whom the said Court may appoint.

Effect of an order vesting the legal right to transfer stock, &c.

XXV. Where any order shall have been made under this Act vesting the right to any stock or Government securities in any person or persons appointed by the High Court, such legal right shall vest accordingly, and thereupon the person or persons so appointed are hereby authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock and Government securities into his or their own name or names or otherwise, or relating to the receipt of the dividends, interest, or income thereof, to the extent and in conformity with the terms of such order. All Companies and Associations whatever, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such Companies, Associations, or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made, and shall be equally indemnified in complying with the requisition of such person or persons so appointed as they would have been indemnified in complying with the requisition of the person in whose place such appointment shall have been made. After notice in writing of any such order of the High Court concerning any stock or Government securities shall have been given, it shall not be lawful for any Company or Association, or any person having received such notice, to act upon the requisition of the person in whose place an appointment shall have been made, in any matter relating to the transfer of such stock or Government securities, or the payment of the dividends, interest, or income thereof.

Effect of an order vesting legal right in a thing in action.

XXVI. Where any order shall have been made under this Act by the High Court vesting the legal right to sue for or recover any thing in action, or any interest in respect thereof, in any person or persons, such legal right shall vest accordingly; and thereupon it shall be lawful for the person or persons so appointed to carry on, commence, and prosecute, in his or their own name or names, any suits or other proceeding for the recovery of such thing in action, in the same manner in all respects as the person in whose place an appointment shall have been made could have sued for or recovered such thing in action.

On neglect to transfer stock, &c., for twenty-eight days, order may be made vesting right to transfer in such person as the Court shall appoint.

XXVII. Where any person shall neglect or refuse to transfer any stock or Government securities, or to receive the dividends, interest, or income thereof, or to sue for or recover any thing in action, or any interest in respect thereof, for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting all the right of such person to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, or to sue for and recover such thing in action, or any interest, in respect thereof, in such person or persons as the said Court may appoint.

On like neglect by executor, similar order may be made.

XXVIII. When any stock or Government securities shall be standing in the sole name of a deceased person, and his executor or administrator shall refuse or neglect to transfer such stock or Government securities, or receive the dividends, interest, or income thereof for the space of twenty-eight days next after an order of the High Court for that purpose shall have been served upon him, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, in any person or persons whom the said Court may appoint.

Companies and Associations to comply with such orders.

XXIX. When any order being or purporting to be under this Act shall be made by the High Court, vesting the right to any stock or Government securities, or vesting the right to transfer any stock or Government securities, or vesting the right to call for the transfer of any stock or Government securities in any person or persons, in every such case the legal right to transfer such stock or Government securities shall vest accordingly; and the person or persons so appointed shall be authorized and empowered to execute all deeds and powers of attorney, and to perform all acts relating to the transfer of such stock or Government securities into his or their own name or names or otherwise, to the extent and in conformity with the terms of the order. All Companies and Associations, and all persons, shall be equally bound and compellable to comply with the requisitions of such person or persons so appointed as aforesaid, to the extent and in conformity with the terms of such order, as such order, as such Companies, Associations, or persons would have been bound and compellable to comply with the requisitions of the person in whose place such appointment shall have been made.

Power to make an order for the transfer or receipt of dividends of stock, &c., in name of a minor Trustee.

XXX. When any minor shall be solely entitled to any stock or Government securities upon any trust, it shall be lawful for the High Court to make an order vesting in any person or persons the right to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof. When any minor shall be entitled jointly with any order person or persons to any stock or Government securities upon any trust, it shall be lawful for the said Court to make an order vesting the right to transfer such stock or Government securities, or to receive the dividends, interest, or income thereof, neither in the person or persons jointly entitled with the minor, or in him or them together with any other person or persons the said Court may appoint.

When a decree is made for sale of immoveable property for payment of debts.

XXXI. When a decree or order shall have been made by the High Court directing the sale of any immoveable property for the payment of the debts of a deceased person, every person holding such property, or entitled to a contingent right therein, as heir, or under the will of such deceased debtor, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act; and the High Court is hereby empowered to make an order wholly discharging the contingent right under the will of such deceased debtor of any unborn person.

High Court may make an order for vesting the estate in lieu of conveyance by a party to the suit after a decree or order for sale.

XXXII. When any decree or order shall have been made by the High Court, whether before or after the passing of this Act, directing the sale of any immoveable property for any purpose whatever, every person holding such property, or entitled to a contingent right therein being a party to the suit or proceeding in which such decree or order shall have been made and bound thereby, or being otherwise bound by such decree or order, shall be deemed so to hold or be entitled (as the case may be) upon a trust within the meaning of this Act. In every such case, it shall be lawful for the High Court, if the said Court shall think it expedient for the purpose of carrying such sale into effect, to make an order vesting such property or any part thereof, for such estate as the Court shall think fit, either in any purchaser or in such other person as the Court shall direct. Every such order shall have the same effect as if the person so holding or entitled had been free from all disability, and had duly executed all proper conveyances and assignments of such property for such estate.

Court to declare what parties are Trustees of immoveable property comprised in any suit, and as to the interests of persons unborn.

XXXIII. Where any decree or order shall be made by the High Court for the specific performance of a contract concerning any immoveable property, or for the partition or exchange of any immoveable property, or generally when any decree shall be made for the conveyance of any immoveable property, either in cases arising out of the doctrine of election or otherwise, it shall be lawful for the said Court to declare that any of the parties to the said suit wherein such decree is made are Trustees of such property or any part thereof, within the meaning of this Act, or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person deceased who was during his life-time a party to the contract or transactions concerning which such decree is made, that such interests of unborn persons are the interests of persons who, upon coming into existence, would be Trustees within the meaning of this Act. Thereupon it shall be lawful for the High Court to make such order or orders as to the estates, rights, and interests of such persons, born or unborn, as the said Court might, under the provisions of this Act, make concerning the estates, rights, and interests of Trustees, born or unborn.

Power to make directions how the right to transfer stock shall be exercised.

XXXIV. It shall be lawful for the High Court to make declarations and give directions concerning the manner in which the right to any stock, Government securities, or thing in action vested under the provisions of this Act shall be exercised, and thereupon the person or

persons in whom such right shall be vested shall be compellable to obey such directions and declarations by the same process as that by which other orders under this Act are enforced.

Power to Court to make order appointing new Trustees.

XXXV. In all cases in which it shall be expedient to appoint a new Trustee or new Trustees, and it shall be found inexpedient, difficult, or impracticable so to do without the assistance of the High Court, it shall be lawful for the said Court to make an order appointing a new Trustee or new Trustees, whether there be any existing Trustee or Trustees or not at the time of making such order, and if there be such Trustee or Trustees, either in substitution for or in addition to him or them. The person or persons who, upon the making of such order, shall be Trustee or Trustees, and have the same rights and powers as he or they would have had if appointed by decree in a suit duly instituted.

New Trustees to have powers of Trustees appointed by decree in suit.

Power to Court to vest immoveable property in new Trustee.

XXXVI. It shall be lawful for the High Court, upon making any order for appointing a new Trustee or new Trustees, either by the same or by any subsequent order, to direct that any immoveable property subject to the trust shall vest in the person or persons who upon the appointment shall be the Trustee or Trustees, for such estate as the Court shall direct. Such order shall have the same effect as if the person or persons who, before such order, was or were the Trustee or Trustees (if any) had duly executed all proper conveyances of such property for such estate.

Power to Court to vest right to sue in new Trustees.

XXXVII. It shall be lawful for the High Court, upon making any order for appointing a new Trustee or new Trustees, either by the same or by any subsequent order, to vest the right to call for a transfer of any stock or Government securities subject to the trust, or to receive the dividends, interest, or income, thereof, or to sue for or recover any thing in action subject to the trust, or any interest in respect thereof, in the person or persons who upon the appointment shall be the Trustee or Trustees.

Old Trustees not to be discharged from liability.

XXXVIII. Any such appointment by the High Court of new Trustees, and any such conveyance or transfer as aforesaid, shall operate no further or otherwise as a discharge to any former or continuing Trustee, than an appointment of new Trustees under any power for that purpose contained in any instrument would have done.

Who may apply.

XXXIX. An order under any of the hereinbefore contained provisions, for the appointment of a new Trustee or new Trustees, or concerning any immoveable property, stock, or Government securities, or thing in action subject to a trust, may be made upon the application of any person beneficially interested in such immoveable property, stock, Government securities, or thing in action, whether under disability or not, or upon the application of any person duly appointed as a Trustee thereof; and an order under any of the provisions hereinbefore contained, concerning any immoveable property, stock, Government securities, or thing in action subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the monies secured by such mortgage.

Application may be by petition.

XL. When any person shall deem himself entitled to an order under any of the provisions hereinbefore contained, it shall be lawful for him to present a petition to the High Court for such order as he may deem himself entitled to, and he may give evidence by affidavit or otherwise in support of such petition before the said Court, and may serve such person or persons with notice of such petition as he may deem entitled to service thereof.

What may be done upon petition.

XLI. Upon the hearing of any such petition, it shall be lawful for the said High Court, should it be deemed necessary, to direct a reference to one of the Judges of the Court to inquire into any facts which require such an investigation, or it shall be lawful for the said Court to direct such petition to stand over, to enable the petitioner to adduce evidence or further evidence before the Court, or to enable notice or any further notice of such petition to be served upon any person or persons.

Court may dismiss petition with or without costs.

XLII. Upon the hearing of any such petition, it shall be lawful for the High Court to dismiss such petition with or without costs, or to make an order thereupon in conformity with the provisions of this Act.

Power to make an order in a cause.

XLIII. Whensoever in any cause or matter, either by the evidence adduced therein, or by the admissions of the parties, or by report of one of the Judges of the Court, the facts necessary for an order under this Act shall appear to the High Court to be sufficiently proved, it shall be lawful for the said Court, either upon the hearing of the said cause or of any petition or application in the said cause or matter, to make such order under this Act.

Orders made by the High Court founded on certain allegations to be conclusive evidence of the matter contained in such allegations.

XLIV. Whenever any order shall be made under this Act by the High Court, for the purpose of conveying any immoveable property, or for the purpose of releasing or disposing of any contingent right, and such order shall be founded on an allegation of the personal incapacity of a Trustee or Mortgagee, or on an allegation that a Trustee or the heir or devisee of a Mortgagee is out of the jurisdiction of the High Court, or cannot be found, or that it is uncertain which of several Trustees, or which of several devisees of a Mortgagee, was the survivor, or whether the last Trustee, or the heir, or last surviving devisee of a Mortgagee, be living or dead, or on an allegation that any Trustee or Mortgagee has died intestate without an heir, or has died, and it is not known who is his heir or devisee, then in any of such cases the fact that the High Court has made an order upon such an allegation, shall be conclusive evidence of the matter so alleged in any Court of Civil Judicature upon any question as to the legal validity of the order: Provided, always, that nothing herein contained shall prevent the High Court directing a re-conveyance of any immoveable property conveyed or assigned by any order under this Act, or a re-disposition of any contingent right conveyed or disposed of by such order; and it shall be lawful for the said Court to direct any of the parties to any suit concerning such property or contingent right, to pay any costs occasioned by the order under this Act, when the same shall appear to have been improperly obtained.

XLV. It shall be lawful for the High Court to exercise the

Trustees of charity.

powers herein conferred for the purpose of vesting any immoveable property, stock, Government securities, or thing in action in the Trustee or Trustees of any charity or society, over which charity or society the High Court would have jurisdiction upon suit duly instituted, whether such Trustees shall have been duly appointed by any power contained in any deed or instrument, or by the decree of the said Court, or by order made upon a petition to the said Court.

Money of minors and persons of unsound mind to be paid into Court.

XLVI. Where any minor or person of unsound mind shall be entitled to any money payable in discharge of any immoveable property, stock, Government securities, or thing in action conveyed or transferred under this Act, it shall be lawful for the person by whom such money is payable to pay the same into the High Court, in trust in any cause then depending concerning such money, or if there shall be no such cause, to the credit of such minor or person of unsound mind, subject to the order or disposition of the said Court; and it shall be lawful for the said Court, upon petition in a summary way, to order any money so paid to be invested in Goverment securities, and to order payment or distribution thereof, or payment of the dividends or interest thereof, as to the said Court shall seem reasonable.

Court may make a decree in the absence of a Trustee.

XLVII. Where in any suit commenced or to be commenced in the High Court it shall be made to appear to the Court that diligent search and enquiry have been made after any person made a defendant, who is only a Trustee, to serve him with the process of the Court and that he cannot be found, it shall be lawful for the said Court to hear and determine such cause, and to make such absolute decree therein against every person who shall appear to it to be only a Trustee, and not otherwise concerned in interest in the matter in question, in such and the same manner as if such Trustee had been duly served with the process of the Court, and had appeared at the hearing of such cause: Provided, always, that no such decree shall bind, affect, or in anywise prejudice any person against whom the same shall be made without service of process upon him as aforesaid, his heirs, executors, or administrators for or in respect of any estate, right, or interest which such person shall have at the time of making such decree for his own use or benefit, or otherwise than as a Trustee as aforesaid.

Orders made under this Act to be chargeable with the same stamp duty as deeds of conveyance.

XLVIII. Every order to be made under this Act, which shall have the effect of a conveyance of any immoveable property, or a transfer of any such stock, Government securities, or thing in action as can only be transferred by stamped deed, or for the transfer of which a stamp is necessary, shall be chargeable with the like amount of stamp duty as it would have been chargeable with if it had been a deed executed or a transfer made by the person or persons holding such property or entitled to such stock, Government securities, or thing in action. Every such order shall be duly stamped for denoting the payment of the said duty.

Costs may be paid out of the estate.

XLIX. The High Court may order the costs and expenses of, and relating to, the petitions, orders, directions, conveyances, and transfers to be made in pursuance of this Act, or any of them, to be paid and raised out

of or from the immoveable or moveable property, or the rents or produce thereof, in respect of which the same respectively shall be made, or in such manner as the said Court shall think proper.

Enquiry concerning person of unsound mind.

L. Upon any petition being presented under this Act to the High Court concerning a person of unsound mind, it shall be lawful for the said Court to make an order directing an enquiry whether such person is or is not of unsound mind, and incapable of managing himself and his affairs. Such order shall have the same effect as the like order made under Section 1 of Act XXXIV. of 1858 *(to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter)*, and the enquiry directed to be made shall be made in all respects in the manner declared and prescribed for making an enquiry under the last-mentioned Act. The High Court may postpone making any order upon the petition presented as aforesaid, until any enquiry so directed to be made shall have been finally concluded.

Suit may be directed.

LI. Upon any petition under this Act being presented to the High Court, it shall be lawful for the said Court to postpone making any order upon such petition, until the right of the petitioner shall have been declared in a suit duly instituted for that purpose.

Indemnity to all persons obeying orders passed under this Act.

LII. Every order made or purporting to be made under this Act by the High Court shall be a complete indemnity to all persons whatsoever for any act done pursuant thereto; and it shall not be necessary for such persons to enquire concerning the propriety of such order, or whether the High Court has jurisdiction to make the same.

Orders under the Act to be executed as, and have the effect of decrees.

LIII. Any order made by the High Court under this Act shall have the same effect and be executed in the same manner as a decree.

Short Title.

LIV. This Act may be cited as "The Indian Trustee Act, 1866."

From 1st February, 1867, this Act to apply to Straits' Settlement.

LV. One and after the 1st day of February, 1867 (but not till then,) the powers and authorities given by this Act to the High Courts shall and may be exercised by the Court of Judicature of the Settlement of Prince of Wales' Island, Singapore, and Malacca, with respect to moveable and immoveable property within the local limits of the jurisdiction of that Court; and, in the said Settlement, Section 2 of this Act shall be read as if the words and figures "1st day of February, 1867" were substituted for the words and figures "1st day of January, 1866."

THE TRUSTEES' AND MORTGAGEES' POWERS' ACT, 1866.

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ACT No. XXVIII. OF 1866.

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3. Sale may be made under special conditions, and Trustees may buy in, &c.
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5. Money arising from sales, to be laid out in the manner indicated in the will, &c. Until it is so laid out, money to be invested in Government securities.
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11. Owner of charge may call for title deeds and conveyance of legal estate.
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25. Legatee in trust may raise money by sale, notwithstanding want of express power in the will.
26. Powers given by last Section extended to survivors, legatees, &c.
27. Executors to have power of raising money, &c., where there is no sufficient bequest.
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36. Trustee's receipts to be discharges.
37. Every Trust instrument to be deemed to contain clauses for the indemnity and reimbursement of the Trustees.
38. Executors may compound, &c.
39 Trustees, &c, making payment under power of attorney, not to be liable by reason of death of party giving such power
40. As to liability of executor or administrator in respect of rents, covenants, or agreements.
41. As to liability of executors, &c, in respect of rents, &c, in conveyance on rent charge
42 As to distribution of the assets of testator or intestate after notice given by executor and administrator.
43 Trustee, executor, &c, may apply by petition to Judge of High Court for opinion, advice, &c. in management, &c, of trust property
44. Tenants for life, &c, may execute powers, notwithstanding incumbrances.
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47. From 1st of February, 1867, Act to apply to Straits' Settlement.

An Act to give to Trustees, Mortgagees, and others, in cases to which English Law is applicable, certain powers now commonly inserted in Settlements, Mortgages, and Wills, and to amend the law of property and relieve Trustees.

Preamble.

Whereas it is expedient that in cases to which English Law is applicable, certain powers and provisions usually inserted in Settlements, Mortgages, Wills, and other instruments, should be made incident to the estates of the persons interested, so as to dispense with the necessity of inserting the same in terms in every such instrument, and that in such cases Trustees should be relieved; It is enacted as follows:

Interpretation of terms.

I. In the construction of this Act—unless there be something repugnant in the subject or context—

"Immoveable Property."

"Immoveable Property" shall include land, any benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth:

"Mortage."

"Mortgage" shall be taken to include every instrument by virtue whereof immoveable property is in any manner conveyed, pledged, or charged as security for the re-payment of money or money's worth lent, and to be re-conveyed, or released on satisfaction of the debt:

"Mortgagor."

"Mortgagor" shall be taken to include every person by whom any such conveyance, pledge, or charge as aforesaid shall be made:

"Mortgagee."

"Mortgagee" shall be taken to include every person to whom or in whose favour any such conveyance, pledge, or charge as aforesaid is made or transferred: and

"High Court."

"High Court" means any Court established, or to be established, under Statute 24 and 25 Vict., chap. 104, and includes the Chief Court of the Punjab and the Supreme Court of Judicature of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Powers of Trustees for sale, &c., and Trustees of renewable lease-holds.

Trustees empowered to sell, may sell in lots, and either by public auction or private contract.

II. In all cases where, by any will, deed, or other instrument of settlement, it is expressly declared that Trustees or other persons therein named or indicated shall have a power of sale, either generally or in any particular event, over any immoveable property named or referred to in, or from time to time subject to, the uses or trusts of such will, deed, or other instrument, it shall be lawful

for such Trustees or other persons, whether such property be vested in them or not, to exercise such power of sale by selling such property, either together or in lots, and either by public auction or private contract, and either at one time or at several times.

Sale may be made unders pecial conditions, and Trustees may buy in, &c.

III. It shall be lawful for the persons making any such sale to insert any such special or other stipulations, either as to title or evidence of title, or otherwise, in any conditions of sale, or contract for any part thereof at any sale by auction, and to rescind or vary any contract for sale, and to re-sell the property which shall be so bought in, or as to which the contract shall be so rescinded, without being responsible for any loss which may be occasioned thereby; and no purchaser under any such sale shall be bound to enquire whether the persons making the same may or may not have in contemplation any particular re-investment of the purchase money in the purchase of any other property or otherwise.

Trustees exercising power of sale, &c., empowered to convey.

IV. For the purpose of completing any such sale as aforesaid, the persons empowered to sell as aforesaid shall have full power to convey or otherwise dispose of the property in question, in such manner as may be necessary.

Money arising from sales, to be laid out in the manner indicated in the will, &c.

V. The money so received upon any such sale as aforesaid shall be laid out in the manner indicated in that behalf in the will, deed, or instrument containing the power of sale; and until the money to be received upon any sale as aforesaid shall be so disposed of, the same shall be invested at interest in Government securities for the benefit of such persons as would be entitled to the benefit of the money, and the interest and profits thereof, in case such money were then actually laid out as aforesaid: Provided that if the will, deed, or instrument shall contain no such indication, the persons empowered to sell as aforesaid shall invest the money so received upon any such sale in their names upon Government securities in India, and the interest of such securities shall be paid and applied to such person or persons for such purposes and in such manner as the rents and profits of the property sold as aforesaid would have been payable or applicable in case such sale had not been made.

Until it is so laid out, money to be invested in Government securities.

Powers of Mortgagees.

Powers incident to mortgages.

VI. Where any principal money is secured or charged by deed on any immoveable property, or on any interest therein, the person to whom such money shall for the time being be payable, his executors, administrators, and assigns, shall, at any time after the expiration of one year from the time when such principal money shall have become payable according to the terms of the deed, or after any interest on such principal money shall have been in arrear for six months, or after any omission to pay any premium on any insurance which by the terms of the deed ought to be paid by the person entitled to the property subject to the charge, have the following powers to the same extent (but no more) as if they had been in terms conferred by the person creating the charge, namely:—

1*st.*—A power to sell or concur with any other person in selling the whole or any part of the property by public auction or private contract, subject to any reasonable conditions he may think fit to make, and to rescind or vary contracts for sale, or buy in and re-sell the property, from time to time, in like manner:

2*nd.*—A power to appoint or obtain the appointment of a Receiver of the rents and profits of the whole or any part of the property in manner hereinafter mentioned.

Receipts for purchase money sufficient discharges.

VII. Receipts for purchase money given by the person or persons exercising the power of sale hereby conferred, shall be sufficient discharges to the purchasers, who shall not be bound to see to the application of such purchase money.

Notice to be given before sale; but purchaser relieved from inquiry as to circumstances of sale.

VIII. No such sale as aforesaid shall be made until after six months' notice in writing given to the person or one of the persons entitled to the property subject to the charge, or affixed on some conspicuous part of such property; but when a sale has been affected in professed exercise of the powers hereby conferred, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power, or that no such notice as aforesaid had been given; but any person damnified by any such unauthorized exercise of such power, shall have his remedy in damages against the person or persons selling.

Application of purchase money.

IX. The money arising by any sale effected as aforesaid shall be applied by the person receiving the same as follows:—first, in payment of all the expenses incident to the sale or incurred in any attempted sale; secondly, in discharge of all interest and costs then due in respect of the charge in consequence whereof the sale was made; and thirdly, in discharge of all the principal monies then due in respect of such charge; and the residue of such money shall be paid to the person entitled to the property subject to the charge, his executors, adminstrators, or assigns, as the case may be.

Conveyance to the purchaser.

X. The person exercising the power of sale hereby conferred shall have power by deed to convey or assign to, and vest in, the purchaser the property sold, for all the estate and interest therein which the person who created the charge had power to dispose of: Provided that nothing therein contained shall be construed to authorize the mortgagee of a term of years to sell and convey the fee simple of the property comprised therein in cases where the mortgagor could have disposed of such fee simple at the date of the mortgage.

Owner of charge may call for title deeds and conveyance of legal estate.

XI. At any time after the power of sale hereby conferred shall have become exerciseable, the person entitled to exercise the same shall be entitled to demand and recover from the person entitled to the property subject to the charge, all the deeds and documents in his possession or power relating to the same property, or to the title thereto, which he would have been entitled to demand and recover if the same property had been conveyed, appointed, or surrendered to and were then vested in him for all the estate and interest which the person creating the charge had power to dispose of; and where the legal estate shall be

outstanding in a Trustee, the person entitled to a charge created by a person equitably entitled, or any purchaser from such person, shall be entitled to call for a conveyance of the legal estate to the same extent as the person creating the charge could have called for such a conveyance if the charge had not been made.

Appointment of Receiver.

XII. Any person entitled to appoint or obtain the appointment of a Receiver as aforesaid, may from time to time, if any person or persons has or have been named in the deed of charge for that purpose, appoint such person or any one of such persons to be Receiver, or if no person be so named, then may, by writing delivered to the person or any one of the persons entitled to the property, subject to the charge, or affixed on some conspicuous part of the property, require such last-mentioned person or persons to appoint a fit and proper person as Receiver, and if no such appointment be made within ten days after such requisition, then may in writing appoint any person he may think fit. No person shall be ineligible for the office of Receiver merely because he is an Officer of the High Court.

Receiver deemed to be the agent of the mortgagor.

XIII. Every Receiver appointed as aforesaid shall be deemed to be the agent of the person entitled to the property subject to the charge, who shall be solely responsible for his acts or defaults, unless otherwise provided for in the charge.

Powers of Receiver.

XIV. Every Receiver appointed as aforesaid shall have power to demand and recover and give effectual receipts for all the rents, issues, and profits of the property of which he is appointed Receiver, by suit, distress, or otherwise, in the name either of the person entitled to the property subject to the charge, or of the person entitled to the money secured by the charge, to the full extent of the estate or interest which the person who created the charge had power to dispose of.

Receiver may be removed.

XV. Every Receiver appointed as aforesaid may be removed by the like authority, or on the like requisition as before provided with respect to the original appointment of a Receiver, and new Receivers may be appointed from time to time.

Receiver to receive a commission not exceeding five per cent.

XVI. Every Receiver appointed as aforesaid shall be entitled to retain out of any money received by him, in lieu of all costs, charges, and expenses whatsoever, such a commission, not exceeding five *per centum* on the gross amount of all money received, as shall be specified in his appointment, and if no amount shall be so specified, then five *per centum* on such gross amount.

Receiver to insure, if required.

XVII. Every Receiver appointed as aforesaid shall, if so directed in writing by the person entitled to the money secured by the charge, insure and keep insured from loss or damage by fire, out of the money received by him, the whole or any part of the property included in the charge which is in its nature insurable.

Application of monies received by him.

XVIII. Every Receiver appointed as aforesaid shall pay and apply all the money received by him in the first place in discharge of Government revenue and of all taxes, rates, and assessments whatsoever, and in payment of his commission as aforesaid and of the premiums on the

insurances, if any; and in the next place in payment of all the interest accruing due in respect of any principal money then charged on the property over which he is Receiver, or on any part thereof; and, subject as aforesaid, shall pay all the residue of such money to the person for the time being entitled to the property subject to the charge, his executors, administrators, or assigns.

This Part to relate to charges by way of mortgage only.

XIX. The powers and provisions contained in Sections 6 to 18 of this Act, both inclusive, relate only to mortgages or charges made to secure money advanced or to be advanced by way of loan, or to secure an existing or future debt.

Leases.

Restriction on effect of license to alien.

XX. Where any license to do any act which without such license would create a forfeiture, or give a right to re-enter, under a condition or power reserved in any lease heretofore granted, or to be hereafter granted, shall, at any time after this Act comes into operation, be given to any lessee or his assigns, every such license shall, unless otherwise expressed, extend only to the permission actually given or to any specific branch of any proviso or covenant made or to be made, or to the actual assignment, under-lease or other matter thereby specifically authorized to be done, but not so as to prevent any proceeding for any subsequent branch (unless otherwise specified in such license); and all rights under covenants and powers of forfeiture and re-entry in the lease contained shall remain in full force and shall be available as against any subsequent breach of covenant or condition, assignment, under-lease, or other matter not specifically authorized or made dispunishable by such license, in the same manner as if no such license had been given; and the condition or right of re-entry shall be and remain in all respects as if such license had not been given, except in respect of the particular matter anthorized to be done.

Restricted operation of partial licenses.

XXI. Where in any lease heretofore granted or to be hereafter granted, there is or shall be a power or condition of re-entry on assigning, under-letting, or doing any other specified act without license, and a license at any time after the passing of this Act shall be given to one of several lessees or co-owners to assign or under-let his share or interest, or to do any other act prohibited to be done without license; or shall be given to any lessee or owner, or any one of several lessees or owners, to assign or under-let part only of the property, or to do any other such act as aforesaid in respect of part only of such property, such license shall not operate to destroy or extinguish the right of re-entry in case of any breach of the covenant or condition by the co-lessee, or co-lessees, or owner or owners, of the other shares or interests in the property, or by the lessee or owner of the rest of the property (as the case may) be over or in respect of such shares or interests or remaining property, but such right of re-entry shall remain in full force over or in respect of the shares or interests or property not the subject of such license.

Apportionment of conditions of re-entry in certain cases.

XXII. Where the reversion upon a lease is served, and the rent or other reservation is legally apportioned, the assignee of each part of the reversion shall, in respect of the apportioned rent or other reservation allotted or belonging to him, have and be entitled to the benefit

of all conditions or powers of re-entry for non-payment of the original rent or other reservation, in like manner as if such conditions or powers had been reserved to him as incident to his part of the reversion in respect of the apportioned rent or other reservation allotted or belonging to him.

Rent-charges.

Release of part of land charged, not to be an extinguishment.

XXIII. The release from a rent- charge of part of the immoveable property charged therewith shall not extinguish the whole rent-charge, but shall operate only to bar the right to recover any part of the rent-charge out of the property released, without prejudice nevertheless to the rights of all persons interested in the property remaining unreleased, and not concurring in or confirming the release.

Powers.

Mode of execution of powers.

XXIV. A deed hereafter executed in the presence of, and attested by, two or more witnesses in the manner in which deeds are ordinarily executed and attested, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by deed or by any instrument in writing not testamentary, notwithstanding it shall have been expressly required that a deed or instrument in writing made in exercise of such power should be executed or attested with some additional or other form of execution or attestation or solemnity: Provided, always, that this provision shall not operate to defeat any direction in the instrument creating the power, that the consent of any particular person shall be necessary to a valid execution, or that any act shall be performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the instrument: and nothing herein contained shall prevent the donee of a power from executing it conformably to the power by writing or otherwise than by an instrument executed and attested as an ordinary deed, and to any such execution of a power this provision shall not extend.

Legatee in trust may raise money by sale, notwithstanding want of express power in the will.

XXV. Where by any Will which shall come into operation after the passing of this Act, the testator shall have charged his immoveable property or any specific portion thereof with the payment of his debts, or with the payment of any legacy or other specific sum of money, and shall have bequeathed the property so charged to any Trustee or Trustees for the whole of his estate or interest therein, and shall not have made any express provision for the raising of such debt, legacy, or sum of money out of such property, it shall be lawful for the said legatee or legatees in trust, notwithstanding any trusts actually declared by the testator, to raise such debts, legacy, or money as aforesaid by sale and absolute disposition, by public auction or private contract, of the said property or any part thereof, or by a mortgage of the same, or partly in one mode and partly in the other; and any deed or deeds of mortgage so executed may reserve such rate of interest and fix such period or periods of re-payment as the person executing the same shall think proper.

Powers given by last Section extended to survivors, legatees, &c.

XXVI. The powers conferred by the last preceding Section shall extend to all and every person or persons in whom the property bequeathed in trust shall for the time being be vested by survivorship, or under the laws relating to intestate or testamentary succession, or to any person

or persons who may be appointed under any power in the Will, or by the High Court, to suceed to the trusteeship vested in such legatee or legatees in trust as aforesaid.

Executors to have power of raising money, &c., where there is no sufficient bequest.

XXVII. If any testator who shall have created such a charge as is described in Section 25 of this Act, shall not have bequeathed the property charged as aforesaid in such terms as that his whole estate and interest therein shall become vested in any Trustee or Trustees, the executor or executors (if any) for the time being named in such Will, shall have the same or the like power of raising the said monies as is hereinbefore vested in the legatee or legatees in trust of the said property, and such power shall from time to time devolve on and become vested in the person or persons (if any) in whom the executorship shall for the time being be vested.

Purchasers, &c., not bound to enquire as to powers.

XXVIII. Purchasers or mortgagees shall not be bound to enquire whether the powers conferred by Sections 25, 26, and 27 of this Act, or any of them, shall have been duly and correctly exercised by the person or persons acting in virtue thereof.

Inheritance.

Descent how to be traced.

XXIX. In cases of intestacies occurring before the 1st day of January, 1866, where there shall be a total failure of heirs of the purchaser, or where any immoveable property shall be descendible as if an ancestor had been the purchaser thereof, and there shall be a total failure of the heirs of such ancestor, then and in every such case the property shall descend, and the descent shall thenceforth be traced from the person last entitled to the property as if he had been the purchaser thereof. This Section shall be read as part of Act XXX. of 1839 *(for the amendment of the law of inheritance.)*

Assignment of Moveables and terms for Years.

Assignment to self and others.

XXX. Any person shall have power to assign moveable property now by law assignable, terms for years of immoveable property, and estates by *elegit*, directly to himself and another person or other persons or corporation, by the like means as he might assign the same to another.

Purchasers.

Not to be bound to see to the application of purchase money, &c.

XXXI. The *bonâ fide* payment to, and the receipt of any person to whom any purchase or mortgage money shall be payable upon any express or implied trust, shall effectually discharge the person paying the same from seeing to the application, or being answerable for the misapplication thereof.

Investment of Trust Funds.

On what securities trust funds may be invested.

XXXII. Trustees having trust money in their hands which it is their duty to invest at interest, shall be at liberty, at their discretion, to invest the same in any Government securities, and such Trustees shall also be at liberty, at their discretion, to call in any trust funds invested in any other securities than as aforesaid, and to invest the same on any such securities as aforesaid, and also from time to time, at their discretion, to vary any such investments as aforesaid for others of the same nature:

Provided, always, that no such original investment as aforesaid, and no such change of investment as aforesaid, shall be made where there is a person under no disability entitled in possession to receive the income of the trust fund for his life, or for a term of years determinable with his life, or for any greater estate, without the consent in writing of such person.

Trustees and Executors.

Trustees may apply income of property of minors, &c., for their maintenance.

XXXIII. In all cases where any property is held by Trustees in trust for a minor, either absolutely or contingently on his attaining majority, or on the occurrence of any event previously to his attaining majority, it shall be lawful for such Trustees, at their sole discretion, to pay to the guardians (if any) of such minor, or otherwise to apply for or towards the maintenance or education of such minor, the whole or any part of the income to which such minor may be entitled in respect of such property, whether there be any other fund applicable to the same purpose, or any other person bound by law to provide for such maintenance or education, or not; and such Trustees shall accumulate all the residue of such income by way of compound interest, by investing the same and the resulting income thereof, from time to time in proper securities, for the benefit of the person who shall ultimately become entitled to the property from which such accumulations shall have arisen: Provided, always, that it shall be lawful for such Trustees at any time, if it shall appear to them expedient, to apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year.

Provisions for appointment of new Trustees, on death, &c.

XXXIV. Whenever any Trustee, either original or substituted, and whether appointed by any High Court or otherwise, shall die, or be six months absent from British India, or desire to be discharged from, or refuse, or become unfit or incapable to act in the trusts or powers in him reposed, before the same shall have been fully discharged and performed, it shall be lawful for the person or persons nominated for that purpose by the deed, will, or other instrument creating the trust (if any), or if there be no such person, or no such person able and willing to act, then for the surviving or continuing Trustees or Trustee for the time being, or the acting executors or executor, or administrators or administrator of the last surviving and continuing Trustee, or for the retiring Trustees, if they shall all retire simultaneously, or for the last retiring Trustee, or where there are two or more classes of Trustees of the instrument creating the trust, then for the surviving or continuing Trustees or Trustee of the class in which any such vacancy or disqualification shall occur (and for this purpose any refusing or retiring Trustee shall, if willing to act in the execution of the power, be considered a continuing Trustee) by writing to appoint any other person or persons to be a Trustee or Trustees in the place of the Trustee or Trustees so dying, or being absent from British India, or desiring to be discharged, or refusing or becoming unfit or incapable to act as aforesaid. So often as any new Trustee or Trustees shall be so appointed as aforesaid, all the trust property (if any) which for the time being shall be vested in the surviving or continuing Trustees or Trustee, or in the heirs, executors, or administrators of any Trustee, shall with all convenient speed be conveyed and transferred, so that the same may be legally and effectually vested in such

new Trustee or Trustees, either solely or jointly with the surviving or continuing Trustees or Trustee, as the case may require. Every new Trustee to be appointed as aforesaid, as well before as after such conveyance or transfer as aforesaid, and also every Trustee appointed by any High Court either before or after the passing of this Act, shall have the same powers, authorities, and discretions, and shall in all respects act as if he had been originally nominated a Trustee by the deed, will, or other instrument (if any) creating the trust. The Official Trustee may with his consent, and by the order of the High Court, be appointed under this Section in any case in which only one Trustee is to be appointed, and such Trustee is to be the sole Trustee.

Appointment of new Trustee in place of Trustee pre-deceasing testator.

XXXV. The power of appointing new Trustees hereinbefore contained, may be exercised in cases where a Trustee nominated in a will has died in the life-time of the testator.

Trustees' receipts to be discharges.

XXXVI. The receipts in writing of any Trustees or Trustee for any money payable to them or him by reason, or in the exercise, of any trusts or powers reposed or vested in them or him, shall be sufficient discharges for the money therein expressed to be received, and shall effectually exonerate the persons paying such money from seeing to the application thereof, or from being answerable for any loss or misapplication thereof.

Every trust instrument to be deemed to contain clauses for the indemnity and reimbursement of the Trustees.

XXXVII. Every deed, will, or other instrument creating a trust either expressly or by implication, shall, without prejudice to the clauses actually contained therein, be deemed to contain a clause in the words or to the effect following, that is to say:—"that the Trustees or Trustee for the time being of the said deed, will, or other instrument, shall be respectively chargeable only for such monies, stocks, funds, and securities, as they shall respectively actually receive, notwithstanding, their respectively signing any receipt for the sake of conformity, and shall be answerable and accountable only for their own acts, receipts, neglects, or defaults, and not for those of each other, nor for any banker, broker, or other person with whom any trust monies or securities may be deposited, nor for the insufficiency or deficiency of any stocks, funds, or securities, nor for any other loss, unless the same shall happen through their own wilful default respectively; and also that it shall be lawful for the Trustees or Trustee for the time being of the said deed, will, or other instrument, to reimburse themselves or himself or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will, or other instrument."

Executors may compound, &c.

XXXVIII. It shall be lawful for any executors to pay any debts or claims upon any evidence that they may think sufficient, and to accept any composition, or any security for any debts due to the deceased, and to allow any time for payment of any such debts as they shall think fit, and also to compromise, compound, or submit to arbitration all debts, accounts, claims, and things whatsoever relating to the estates of the deceased, and for any of the purposes aforesaid to enter into, give, and execute such agreements, instrument of composition, releases and other things as they shall think expedient, without being responsible for any loss to be occasioned thereby.

Trustee, &c., making payment under power of attorney, not to be liable by reason of death of party giving such power.

XXXIX. No Trustee, executor, or administrator making any payment or doing any act *bonâ fide* under or in pursuance of any power of attorney, shall be liable for the monies so paid or the act so done, by reason that the person who gave the power of attorney was dead at the time of such payment or act, or had done some act to avoid the power: Provided that the fact of the death, or of the doing of such act as last aforesaid, at the time of such payment or act *bonâ fide* done as aforesaid by such Trustee, executor, or administrator, was not known to him: Provided, always, that nothing herein contained shall in any manner affect or prejudice the right of any person entitled to the money against the person to whom such payment shall have been made; but that such person so entitled shall have the same remedy against such person to whom such payment shall be made as he would have had against the Trustee, executor, or adminstrator, if the money had not been paid away under such power of attorney.

As to liability of executor or administrator in respect of rents, covenants, or agreements.

XL. Where an executor or administrator liable as such to the rents, covenants, or agreements contained in any lease or agreement for a lease granted or assigned, whether before or after the passing of this Act, to the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said lease, or agreement for a lease as may have accrued due and been claimed up to the time of the assignment hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised, or agreed to be demised, although the period for laying out the same may not have arrived, and shall have assigned the lease or agreement for a lease to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part, or any further part (as the case may be) of the estate of the deceased to meet any future liability under the said lease or agreement for a lease. The executor or administrator so distributing the residuary estate shall not, after having assigned the said lease or agreement for a lease, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said lease or agreement for a lease. Nothing herein contained shall prejudice the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

As to liability of executor, &c., in respect of rents, &c, in conveyance on rent-charge.

XLI. In like manner, where an executor or administrator liable as such to the rent, covenants, or agreements contained in any conveyance on chief rent or rent-charge (whether any such rent be by limitation of use, grant, or reservation), or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, shall have satisfied all such liabilities under the said conveyance or agreement for a conveyance, as may have accrued due and been claimed up to the time of the conveyance, hereinafter mentioned, and shall have set apart a sufficient fund to answer any future claim that may be made in respect

of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and shall have conveyed such property, or assigned the said agreement for such conveyance as aforesaid, to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto, respectively, without appropriating any part or any further part (as the case may be) of such estate to meet any future liability under the said conveyance, or agreement for a conveyance. The executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said conveyance, or agreement for conveyance. Nothing herein contained shall prejudice the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed.

As to distribution of the assets of testator or intestate after notice given by executor and administrator.

XLII. Where an executor or administrator shall have given such or the like notices, as in the opinion of the Court in which such executor or administrator is sought to be charged would have been given by the High Court in an administration suit, for creditors and others to send in to the executor or administrator their claims against the estate of the testator or intestate, such executor or administrator shall at the expiration of the time named, in the said notices, or the last of the said notices, for sending in such claims, be at liberty to distribute the assets of the testator or intestate, or any part thereof, amongst the parties entitled thereto, having regard to the claims of which such executor or administrator has then notice, and shall not be liable for the assets or any part thereof so distributed to any person of whose claim such executor or administrator shall not have had notice at the time of distribution of the said assets or a part thereof, as the case may be. Nothing in the present Act contained shall prejudice the right of any creditor or claimant to follow the assets or any part thereof into the hands of the person or persons who may have received the same respectively.

Trustee, executor, &c., may apply by petition to Judge of High Court for opinion, advice, &c., in management, &c., of trust property.

XLIII. Any Trustee, executor, or administrator shall be at liberty, without the institution of a suit, to apply by petition to any Judge of the High Court for the opinion, advice, or direction of such Judge or any question respecting the management or administration of the trust property or the assets of any testator or intestate. Such application shall be served upon, or the hearing thereof shall be attended by, all persons interested in such application, or such of them as the said Judge shall think expedient. The Trustee, executor, or administrator acting upon the opinion, advice, or direction given by the said Judge shall be deemed, so far as regards his own responsibility, to have discharged his duty as such Trustee, executor, or administrator, in the subject, matter of the said application: Provided, nevertheless, that this Act shall not extend to indemnify any Trustee, executor, or administrator, in respect of any act done in accordance with such opinion, advice, or direction as aforesaid, if such Trustee, executor, or administrator shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice, or

direction: and the costs of such application as aforesaid shall be in the discretion of the Judge to whom the said application shall be made.

General Provisions.

Tenants for life, &c., may execute powers, notwithstanding incumbrances.

XLIV. For the purposes of this Act, a person shall be deemed to be entitled to the possession or to the receipt of the rents and income of immoveable or moveable property, although his estate may be charged or incumbered, either by himself or by any former owner, or otherwise howsoever to any extent; but the estates or interests of the affected parties entitled to any such charge or incumbrance shall not be by the acts of the person entitled to the possession or to the receipt of the rents and income as aforesaid, unless they shall concur therein.

Operation of Act.

XLV. The provisions contained in this Act shall, except as hereinbefore otherwise provided, extend only to persons entitled or acting under a deed, will, codicil or other instrument executed after this Act comes into operation, or under a will or codicil confirmed or revived by a codicil executed after that date, and only to property in British India and to cases to which English law is applicable.

Short title.

XLVI. This Act may be called "The Trustees' and Mortgagees' Powers' Act, 1866."

From 1st February 1867, Act to apply to Straits' Settlement.

XLVII. On and after the 1st day of February, 1867, but not till then, this Act shall apply to the Settlement of Prince of Wales' Island, Singapore, and Malacca; and, in the said Settlement, Section 29 of this Act shall be read as if the words and figures "1st day of February, 1867" were substituted for the words and figures "1st day of January, 1866."

ACT No. XXIX. OF 1866.

1. Courts of Requests authorized to try suits to an amount or value not exceeding 50 dollars.
2. Appointment, remuneration, and removal of Bailiffs and Appraisers.
3. Issue of distress warrant.
4. Seizure of goods and chattels.
5. Sale of goods and chattels.
6. Costs of distress.
7. No distress for arrears of rent amounting to 50 dollars except under this Act. Penalty.
8. Act not to apply to rent due to Government.
9. Seal of Court.
10. Mode of examining witnesses.
11. Summonses to witnesses.
12. Penalty for witness not appearing, &c.
13. Issue of warrant for arrest of defendant evading process or concealing property.
14. Enforcement of fines.
15. Execution may issue either against person or property of debtor.
16. In case of order to pay by instalments, execution to issue on default of payment without further notice.
17. Warrants in execution against the body.
18. No person to be twice imprisoned, nor execution against body and goods to issue at the same time under same judgment.
19. Warrants in execution against goods.
20. Penalty for contempts of Court.
21. Penalty for assaulting Bailiff, &c., in execution of duty.
22. Penalty for Bailiff neglecting, &c., to execute warrant.
23. Penalty for misconduct on part of Clerk, Bailiff, &c.
24. Penalty for Clerk, &c., taking a bribe.
25. Provision for cases of erroneous execution of process.
26. Limit of damages in actions against Clerk, &c.
27. Form of conviction.
28. No order, &c., to be quashed for want of form.
29. Distress not unlawful on account of defect or informality.
30. Limitation of actions.

An Act to enlarge the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Preamble.

Whereas by the Letters Patent re-constituting the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca, Her Majesty, among other things, authorized and empowered the Governor or President and Council of the said Settlement for the time being to erect and establish such Court or Courts of Judicature as they should see fit for the recovery of small debts, and for the trial and determination of all suits and causes whatsoever against any of the inhabitants of the said Settlement, wherein the debt, duty, or matter in dispute should not exceed the value of thirty-two dollars; and whereas under the said authority, Courts of Requests have been established at Penang, Province Wellesly, Singapore, and Malacca; and whereas it is expedient that the said Courts, and also any other Courts which may hereafter be established under the said authority, should have jurisdiction in all suits wherein the matter in dispute shall not exceed the value of fifty dollars; It is enacted as follows:

Courts of Requests authorized to try suits to an amount or value not exceeding 50 dollars.

I. From and after the passing of this Act, any Court or Courts established, or which may be established, in the Settlement of Prince of Wales' Island, Singapore, and Malacca, under the said authority, shall have jurisdiction to try and determine all suits brought for the recovery of debts, and all suits and causes whatever against any of the inhabitants of the said Settlement or the places now, or at any time hereafter to be, subordinate or annexed thereto, wherein the debt, duty, or matter in dispute shall not exceed the value of fifty dollars.

Appointment, remuneration, and removal of Bailiffs and Appraisers.

II. It shall be lawful for the Commissioners of the Courts of Reqests respectively in the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca, to appoint four or more persons to be Bailiffs and Appraisers for the purposes of this Act, and, with the sanction of the Governor of the said Settlement, to fix such remuneration for the services of the said Officers as shall appear to the said Commissioners expedient; and such persons shall be duly sworn before the said Commissioners, and shall also give security, to be approved by the said Commissioners, faithfully to discharge the duties of their office, and the said Commissioners shall have power to suspend or remove such persons so appointed: Provided that it shall be lawful for the said Commissioners respectively to appoint the Bailiffs who may be attached from time to time to the said Courts respectively to the office of Distraining Bailiffs and Appraisers, for the purposes of this Act, and to award to the said Officers such remuneration in addition to their respective salaries drawn from the said Courts, as to the said Commissioners with the sanction of the Governor of the said Settlement shall appear expedient.

Issue of distress warrant.

III. It shall be lawful for any Commissioner of a Court of Requests in any such Station, upon the affidavit in the form contained in the Schedule to this Act annexed (marked D) of any party claiming to be entitled to arrears of rent of any house or premises situate in such Station, not exceeding the amount of fifty dollars, or in case of

absence of such party from such Station, or in case of respectable females who do not appear in public, upon the affidavit of the constituted Attorney of such party, stating the amount of such arrears, and for what time and at what rate the same became due, to issue a warrant under his hand and seal, in the form contained in the Schedule to this Act annexed (marked A) addressed to any one of such Officers of Court, directing him to levy the amount of such rent, together with the costs of the said distress, in the manner therein mentioned: Provided that it shall be lawful for any of the said Commissioners, upon personal examination of the party applying for such warrant, to grant or withhold the same, at the discretion of the said Commissioner.

Seizure of goods and chattels.

IV. By virtue of such warrant, it shall be lawful for such Officer to seize the whole or such part of the goods and chattels upon the said premises as shall be sufficient to cover the amount of the said rent, together with the costs of the said distress, and he shall thereupon make an inventory of the goods and chattels so seized, and shall give a notice in writing in the form in the Schedule to this Act annexed (marked B) to the party from whom such rent is claimed to be due, or to any other person upon behalf of such party upon the said premises, that the said goods and chattels will be appraised and sold in manner therein mentioned. And the said Officer shall file in the Court of Requests, from which the warrant issued, true copies of the said inventory and notice: Provided that it shall be lawful for the party from whom such rent is claimed to be due, at any time within five days from such seizure, to apply to any Commissioner of such Court to discharge or suspend such warrant, and it shall be lawful for such Commissioner to discharge or suspend such warrant accordingly, with or without costs: Provided that it shall be lawful for any of the said Commissioners in his discretion to give reasonable time to such party to pay the said rent.

Sale of goods and chattels.

V. In default of such application, it shall be lawful for any two of such Officers of such Court, at the expiration of five days from such seizure, to appraise the goods and chattels so seized, and to give notice in writing in the form in the Schedule to this Act annexed (marked E) of the sale thereof, at such time and place as they shall direct, after an interval of not less than two days; and they shall file in such Court a true copy of the said notice, and that the same shall be sold accordingly, and the said Officers shall forthwith, after realization of the produce of the said sale, pay over the amount thereof to the Chief Clerk of the Said Court, or other Head Officer of such Court, and the amount of such produce shall be applied in satisfaction of the sum claimed to be due, together with the costs of the said distress, and the surplus, if any, shall be returned to the party from whom the said rent was claimed to be due: Provided that it shall be lawful for such party to direct that such sale shall take place in any other manner, such party giving security for any extra costs attending such mode of sale.

Costs of distress.

VI. No costs shall be taken or demanded for such distress, except those contained in the Schedule to this Act annexed (marked C), and it shall be lawful for the said Commissioners of the Court out of which such distress is issued, with the sanction of the Governor of the said Settlement, to apply the sum so raised as costs towards the payment of the contingent charges and

remuneration of the said Bailiffs and Appraisers, as shall appear to the said Commissioners expedient, and the Chief Clerk or other Head Officer of the said Court shall keep a book, in which all sums received as costs upon distresses made under the provisions of this Act, and all sums paid as remuneration to the said Bailiffs and Appraisers, and all contingent charges incurred in respect of such distress, shall be duly entered, and the Chief Clerk or other Officer, as aforesaid, of the said Court, shall also enter in the said book all sums realized by sale of the goods and chattels distrained and paid over to the landlords, under the provisions of this Act.

No distress for arrears of rent amounting to fifty dollars except under this Act.

Penalty.

VII. After the passing of this Act, no distress shall be levied for arrears of rent amounting to fifty dollars or less, except under the provisions of this Act; and any person, except such officer as shall be appointed under this Act, levying or attempting to levy any such distress, shall be guilty of a misdemeanor, and shall be liable to be punished by fine and imprisonment for the same, in addition to any other liability he may have incurred by such trespass.

Act not to apply to rent due to Government.

VIII. This Act shall not extend to any arrears of rent exceeding fifty dollars, nor in respect of any house or premises situate out of the local jurisdiction of any such Court, nor to any rent due to Government, nor to any seizure, except on the premises in respect of which such rent is claimed.

Seal of Court.

IX. A seal shall be made for every Court of Requests in the said Settlement under the direction of the Governor of the said Settlement, and all summonses and other process issuing out of any such Court shall be sealed or stamped with the seal of the Court; and every person who shall forge the seal or any process of any such Court, or who shall serve or enforce any such forged process knowing the same to be forged, or deliver or cause to be delivered to any person any paper falsely purporting to be a copy of any summons or other process of such Court, knowing the same to be false, or who shall act or profess to act under any false colour or pretence of the process of the said Court, shall be guilty of felony.

Mode of examining witnesses.

X. Every person who shall give evidence in any Court of Requests in the said Settlement shall be examined on oath, or, when exempt by law from taking an oath, on solemn affirmation; and every person who, in any examination upon oath or solemn affirmation under this Act, shall wilfully and corruptly give false evidence, shall be deemed guilty of perjury.

Summonses to witnesses.

XI. Either of the parties to a suit or any other proceeding in any Court of Requests in the said Settlement may obtain, at the Office of the Clerk of such Court or other Officer as aforesaid, summonses to witnesses, with or without a clause requiring the production of books, deeds, papers, and writings in their possession or control, and in any such summons any number of names may be inserted.

Penalty for witness not appearing, &c.

XII. Every person on whom any such summons shall have been served, either personally or in such other manner as shall be directed by the general rules or practice oft he Court of Requests out of which such summons shall issue, and who shall

refuse or neglect, without sufficient cause, to appear or to produce any books, papers, or writings required by such summons to be produced, and also every person present in any such Court, who shall be required to give evidence, and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine, not exceeding fifty dollars, as the Commissioners of such Court shall impose on him, and the whole or any part of such fine in the discretion of the Commissioners after deducting the costs, may be applied towards indemnifying the party injured by such refusal or neglect.

Issue of warrant for arrest of defendant evading process or concealing property.

XIII. The Commissioners of any Court of Requests in the said Settlement, in all suits where the debt or demand exceeds the sum of fifteen dollars, upon proof before them that any defendant against whom a summons has been taken out conceals himself from or otherwise evades process of such Court, or is disposing of his property and effects with intent to defraud the plaintiff or his creditors generally, or is about to withdraw his person or effects from the jurisdiction of such Court, may issue a warrant for the apprehension of such person, and may commit him to gaol, until he shall find security for his appearance in such Court, from time to time, until judgment shall be pronounced in the suit commenced by such summons, and for payment of the amount and the costs which may be decreed against him therein.

Enforcement of fines.

XIV. Payment of any fine imposed by any Court of Requests under the authority of this Act may be enforced upon the order of the Commissioners of such Court in like manner as payment of any debt adjudged in the said Court, and shall be accounted for as herein provided.

Execution may issue either against person or property of debtor.

XV. Whenever any Court of Requests in the said Settlement shall have made an order for the payment of money, the amount shall be recoverable, in case of default or failure of payment thereof forthwith, or at the time or times and in the manner directed, by execution against the body or the goods and chattels of the person against whom such order is made, without further notice or order, and the Clerk of the said Court or other Officer as aforesaid, at the request of the person prosecuting such order, shall issue under the seal of the Court a writ of execution to one of the Bailiffs of such Court, which shall be his warrant to take the body of such person in execution, or to levy, or cause to be levied by distress and sale of the goods and chattels of such person, such sum of money as shall be so ordered, wheresoever they may be found within the district of the Court and also the costs of the execution; and all Constables and other, Peace Officers within their several jurisdictions shall aid in the execution of every such writ.

In case of order to pay by instalments, execution to issue on default of payment, without further notice.

XVI. If any such Court shall have made any order for payment of any sum of money by instalments, execution upon such order shall not issue until after default in payment of some instalment according to such order; and execution or successive executions may then issue without further notice or order for the whole of the said sum of money and costs then remaining unpaid, or for such portion thereof as such Court shall order, either at the time of making the original order, or at any subsequent time, under the seal of the Court.

Warrants in execution against the body.

XVII. Whenever any warrant shall issue for taking in execution the body of any person under this Act, the Bailiffs of the Court of Requests out of which such warrant shall issue, shall be empowered, by virtue thereof, to take and convey him to any prison appointed by the Governor of the Settlement to be the prison of such Court, there to remain for such term as shall be directed by the warrant not longer than six calendar months, or until he shall sooner perform the order of such Court.

No person to be twice imprisoned, nor execution against body and goods to issue at the same time under same judgment.

XVIII. No person shall be imprisoned twice under the same judgment, nor shall execution against the body and goods issue at the same time under the same judgment.

Warrants in execution against goods.

XIX. Every Bailiff executing any process of execution issuing out of any such Court against the goods of any person, may, by virtue thereof, seize and take any of the goods of such person (excepting the necessary wearing apparel and bedding of such person or his family, and the tools and implements of his trade), and may also seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to any such person against whom any execution shall have issued as aforesaid.

Penalty for contempts of Court.

XX. If any person shall wilfully insult any Commissioner, Clerk, or Officer of any such Court, for the time being, during his sitting or attendance in Court, or shall wilfully interrupt the proceedings of any such Court, or otherwise misbehave in any such Court, it shall be lawful for any Bailiff or Officer of the Court, with or without the assistance of any other person, by the order of a Commissioner of such Court, to take such offender into custody, and detain him until the rising of such Court; and the Commissioners shall be empowered, if they shall think fit, by a warrant under their hands and sealed with the seal of the Court, to commit any such offender to any prison to which they have power to commit offenders under this Act, for any time not exceeding seven days, or to impose upon any such offender a fine not exceeding twenty-five dollars for every such offence, and in default of payment thereof to commit the offender to any such prison as aforesaid, for any time not exceeding seven days, unless the said fine be sooner paid, or instead of inflicting summary punishment under this Act, may cause the offender to be indicted in the Court of Judicature if the offence be an indictable misdemeanor.

Penalty for assaulting Bailiff, &c., in execution of duty.

XXI. If any Officer or Bailiff of any such Court shall be assaulted while in the execution of his duty, or if any rescue shall be made or attempted to be made of any person arrested or goods levied under process of any such Court, the person so offending shall be liable to a fine not exceeding fifty dollars, to be recovered by order of such Court, or before a Magistrate, and the Bailiff of the Court, or any Peace Officer in any such case, may take the offender into custody (with or without warrant) and bring him before such Court or Magistrate accordingly.

Penalty for Bailiff neglecting, &c., to execute warrant.

XXII. If any Bailiff of any such Court, who shall be employed to execute any warrant of any such Court, shall, by neglect, or connivance, or omission, lose an opportunity of executing such warrant, then, upon com-

plaint of the party aggrieved by reason of such neglect, connivance or omission (and the fact alleged being proved to the satisfaction of the Court), the Commissioners of such Court shall order the Bailiff to pay such damages as it shall appear that the plaintiff has sustained thereby, not exceeding in any case the sum of money for which the said execution is issued, and the Bailiff shall be liable thereto, and upon demand made therefor, and on his refusal so to pay and satisfy the same, payment thereof shall be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court, without prejudice nevertheless to the execution of the original warrant.

Penalty for misconduct on part of Clerk, Bailiff, &c.

XXIII. If any Clerk, Bailiff, or other Officer of any such Court acting under colour or pretence of the process of the said Court shall be charged with extortion or misconduct, or with not duly paying or accounting for any money levied by him under the authority of this Act, the Commissioners of such Court may enquire into such matter in a summary way, and for that purpose may summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses in any case may be enforced, and may make such order thereupon for the re-payment of any money extorted, or for the due payment of any money so levied as aforesaid, and for the payment of such damages and costs, as they shall think just, and also if they shall think fit, may impose such fine upon the Clerk, Bailiff, or Officer, not exceeding fifty dollars for each offence, as they shall deem adequate, and in default of payment of any money so ordered to be paid, payment of the same may be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said Court.

Penalty for Clerk, &c., taking bribe.

XXIV. Every Clerk, Bailiff, or other Officer employed in putting any of the powers of this Act into execution, who shall wilfully and corruptly exact, take, or accept any fee or reward whatsoever, other than his lawful salary for any thing done or to be done by virtue of this Act, or on any account whatsoever relative to putting this Act into execution, shall, upon, proof thereof before the Court in which such Clerk, Bailiff, or Officer is employed, and, in the case of a Clerk, on confirmation of the finding of the Court by the Governor of the said Settlement, be for ever incapable of serving or being employed under this Act in any office of profit or emolument, and shall also be liable for damages as herein provided.

Provision for cases of erroneous execution of process.

XXV. If any claim shall be made to or in respect of any goods or chattels taken in execution under the process of any Court of Requests under this Act, or in respect of the proceeds or value thereof, by any person not being the party against whom such process has issued, the Clerk of such Court or other Officer as aforesaid, upon application of the Officer charged with the execution of such process, as well before as after any action brought against such Officer, may issue a summons, calling before the said Court, as well the party issuing such process as the party making such claim, and thereupon any action which shall have been brought in the Court of Judicature in respect of such claim, shall be stayed, and the Judge of the Court of Judicature, on proof of the issue of such summons, and that the goods and chattels were so taken in execution, may order the party bringing such action to pay the costs of all proceedings had upon such action, after the issue of such summons

out of such Court of Requests; and the Commissioners of such Court of Requests shall adjudicate upon such claim, and make such order between the parties in respect thereof, and of the costs of the proceedings as to them shall seem fit, and such order shall be enforced in like manner as any order made in any suit brought in such Court.

Limit of damages in actions against Clerk, &c.

XXVI If any person shall bring any suit in any Court of Judicature in the said Settlement in respect of any grievance committed by the Clerk, Bailiff, or Officer of any Court of Requests, within the jurisdiction of such Court of Judicature under colour or pretence of the process of the said Court of Requests, and upon the trial of the action, no greater damages shall be found for the plaintiff than the sum of two hundred and fifty dollars, no costs shall be awarded to the plaintiff in such action, unless the Judge shall certify in Court, upon the back of the record, that the action was fit to be brought in the Court of Judicature.

Form of conviction.

XXVII. In all cases where any conviction shall be had for any offence committed against this Act, the form of conviction may be in the words or to the effect following (that is to say):—Be it remembered that on this———day of——— ———————in the year————*A B* is convicted before ————————, a Magistrate for the————, or before a Commissioner acting under Act XXIX. of 1866, of having *(state the offence)* and I *(or* we*)* the said————do adjudge the said——— ————to forfeit and pay for the same the sum of————[*or* to be committed to————for the space of————] Given under————hand (————) and seal (————) the day and year aforesaid.

No order, &c., to be quashed for want of form.

XXVIII. No order, verdict of judgment, or other proceeding, made concerning the matters aforesaid, shall be quashed or vacated for want of form.

Distress not unlawful on account of defect or informality.

XXIX. Where any distress shall be made for any sum of money to be levied by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser, on account of any defect or warrant of form in the information, summons, conviction, warrant of distress or other proceeding relating thereto, nor shall the party distraining be deemed a trespasser from the beginning on account of any irregularity which shall afterwards be committed by the party so distraining, but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action upon the case.

Limitation of actions.

XXX. All actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act shall be commenced within three calendar months after the fact committed, and not afterwards, and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action is brought, or if after action brought, a sufficient sum of money shall have been paid into Court, with costs by or on behalf of the defendant.

SCHEDULE.

A.

In the Court of Requests in and for the Station of (as the case may be.)

FORM OF WARRANT.

I hereby direct you to distrain the goods and chattels on the premises of A B, situate in————in the————for the sum of————dollars, being the amount of——months' rent due to C D for the same on the——day of ————last, according to the provisions of the Act XXIX. of 1866. Dated 1*st* day of *May*.

(Signed and Sealed)

To

E. F.,
Sworn Baliff and Appraiser.

B.

In the Court of Requests in and for the Station of (as the case may be.)

FORM OF INVENTORY AND NOTICE.

(*State particulars of goods seized.*)

Take notice that I have this day seized the goods and chattels contained in the above inventory for the sum of——dollars, being the amount of—— months' rent due to C D at——last, and that unless you pay the amount thereof, together with the costs of this distress, within five days from the date hereof, or obtain an order from one of the Commissioners of the Court of Requests to the contrary, the same will be appraised and sold, pursuant to the provisions of the Act XXIX. of 1866.

(Signed) E. F.,
Sworn Baliff and Appraiser.

To

A. B.

C.

In the Court of Requests in and for the Station of————

SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR HOUSE-RENT.

SUMS SUED FOR.	Affidavit, Warrant to distrain, Notices, &c.	Order to sell.	Commission.	Total.	Remarks.
	Dol. Ct.	Dol. Ct.	Dol. Ct.	Dol. Ct.	
1 and under 10 dollars ...	0—50	Twenty-five cents.	Five per cent.		
10 „ „ 20 „ ...	1—00				
20 „ „ 30 „ ...	1—50				
30 „ „ 40 „ ...	2—00				
40 „ „ 50 „ ...	3—00				

The above scale is intended to include all expenses, except in suits where the tenant disputes the landlord's claim, and witnesses have to be subpœnaed, in which case each subpœna for sums under twenty dollars must be paid for at twenty cents., and each subpœna for sums equal to or more than twenty dollars must be paid for at thirty cents. Where watchmen were kept in charge of property distrained, twenty cents. per day must be paid per man.

D.

In the Court of Requests in and for the Station of (as the case may be.)

A B (Plaintiff)

versus

C D (Defendant).

A B, inhabitant of ——————in the Station of——————— maketh oath and saith, that C D, who is also an inhabitant of the town of——————— is justly indebted to——————in the sum of dollars——————for arrears of rent of the house and premises No.——————situated at ——————in the Station of——————due for——————— month, to wit from——————to——————at the rate of dollars ——per mensem. Sworn before me the——————day of——18 .

Commissioner.

E.

In the Court of Requests in and for the Station of (as the case may be.)

Take notice that we have appraised the goods and chattels seized on the——— under the provisions of the Act XXIX. of 1866, of which a Notice and Inventory had been duly served upon you under date the——————, and that the said goods and chattels will be sold on the——————at——————pursuant to the provisions of the said Act.

(Signed) E F.,
" G H.,
Sworn Bailiffs and Appraisers.

To
A. B.

Act No. XXX. of 1866.

1. Repeal of Act XIV. of 1851.
2. Duties imposed.
3. Exclusive rights
4. Farmer's name.
5. Farmers to sign contract, and give security, &c. Government may dispose of securities, &c., summarily, and apply same to defalcations, &c. Proviso. Form of contract and of mortgage.
6. Import of opium. Bill of specifications. Permit by Registrar of Imports and Exports to land Opium. Permit to remove. Export of Opium. Permit to export. Confined to principal ports. Opium less than one chest. Penalty. Forfeiture.
7. Inspection of Register. Certified extracts of Register. Evidence. Omission of entries.
8. Search warrant for Opium. Information. Penalty.
9. Making Chandoo. Importing Chandoo. Selling Chandoo. Having in possession Chandoo. Proof. Penalty. Forfeiture.
10. Raw Opium, selling or buying. Having in possession. Penalty. Forfeiture. Proviso.
11. Raw Opium or Chandoo arriving. Notice to land. Permit to land. Notice to Farmer. Deposit. Permit to export. Notice to Farmer. Proviso. Port clearance. Specification in permits. Penalty. Forfeiture.
12. Export of Opium less than one chest. One chest to be deposited. Bill of particulars. Delivery by Registrar. Permit to export. Chest emptied. Proviso. Notice to Farmer. Port clearance. Penalty.
13. Not exporting. Penalty. Forfeiture.
14. Exemption.
15. Import of spirits. Bill of specifications. Permit to land. Proviso. Use on premises. Payment of duty. Landing spirits. Notice to Farmer. Penalty.
16. Spirits on board ships to be landed. Exporting. Proviso for sale. Penalty. Forfeiture.
17. Removal of spirits from place of import storing. Application to Farmer. Payment of duty Permit for removal.
18. Export of spirits. Bill of specifications. Permit to export. Notice to Farmer. Farmer's permit for three dozen. Proviso. Port clearance. Proviso. Duty already paid. Proof. Refund. Not exporting. Penalty. Forfeiture.
19. Subsequent removal of spirits. Application to Farmer. Farmer's Permit. Proviso for duty. Proof of payment.
20. Illicit landing, or exporting, or removing spirits. Penalty. Forfeiture.
21. Farmer refusing permit. Application to Justice of the Peace. Security for duty. Order of Justice of the Peace. Fee for order.
22. Receipts by Farmers. Refusing permit. Penalty.
23. Search warrant. Information on oath. Warrant to examine stores. Deficiency. Summons. Penalty. Duty. Proviso for leakage, &c. Proviso. Service of warrant.
24. Sugar distilleries. License. Fee. Registry.
25. Distiller selling, &c. Selling, &c., for exportation, 160 gallons. Penalty. Forfeiture.
26. Illicit distillation. Having still in possession. Distilling. Penalty. Forfeiture. Exemption.
27. Dealing in spirits illicitly. Having in possession. Penalty. Forfeiture. Proviso onus of proof.
28. Exemption for Government.
29. Registry of Toddy and Bhang lands. Particulars, Registry book. Inspection of book. Penalty. Proviso for proof.

30 Search warrant to examine lands Summons Penalty Proviso
31 Import of Toddy and Bhang Price Proviso Export again Penalty Forfeiture.
32 Dealing in Toddy or Bhang Having in possession Burthen of proof Penalty Forfeiture
33 Hotels, &c, to be registered License to sell for consumption on premises Three classes. Fees Penalty Forfeiture
34 Licensed shops to be registered Licenses Numbers and situation. Acknowledgment of keeper in book of rules Copy of rules Penalty
35 Rules to be framed Particulars Police visits Arrest of armed persons, disturbers, gamblers, breakers of the Peace Penalty Fee for license. Cost of sign boards.
36 Cancelment of license
37 Gambling Armed persons Penalty
38 Exciseable articles not purchased from Farmers. Proof. Penalty. Forfeiture.
39 Selling, except for coin Penalty
40. Exchange for servants' wages Penalty.
41. Sale to soldiers Penalty
42. Adulterated Spirits or Toddy Penalty. Destruction of articles.
43 Compounding for offences Penalty
44 Sale by outgoing Farmers near end of term Articles found sold contrary to this Section. Penalties and forfeitures
45 Fees for licenses to Farmers. Fines and penalties Informer's share. Municipal Fund. Forfeitures for Farmers
46 Warrant to act to approved persons. Acting without warrant. Police Officers. Withdrawing of warrant Penalty Names to be posted
47 Badges for Revenue Officers. Rules for acting Revenue Officers. Police Officers. Obstructing Officers Penalty
48 Assaulting Officers Penalty. Opposing force to force.
49 Extortion Bribery Malicious charges Delay in going before Justice of the Peace Penalty.
50 Search warrants To Police Officer To Revenue Officer By daylight On land At sea Information. Contraband articles Utensils Arrest on suspicion. Break open doors Entry on ship Seizure
51 Offences on view Concealment on person Arrest Search by Justice of the Peace. Bail. Commitment in default of bail. Detention. Proviso, time of detention. Default of appearance. Summary procedure
52 Proceeding *exparte*
53 Remission of sentences
54 Convictions Warrant of distress Commitment in default of distress Form of warrant of commitment Periods of imprisonment Commitment without distress Warrant of commitment Commutation of penalties
55 Form of conviction Not to be quashed for formal defects, &c *Certiorari*
56 Appeal Week's notice Grounds of appeal Transcript to be sent to Court of Judicature Deposit for cost of transcript Security for cost Security for judgment Respite of sentence Order to bring up persons in prison Bail Default of appearance Summary procedure Form of security.
57 Appeal to be entered on list Rules for hearing appeals Judgment of Court Costs Further evidence Registrar of Court to certify the judgment of Court Execution of judgment. No appeal for mere defect of form
58. Seizures not to be enquired into Trials to be on merits
59 Actions Limitation, three months Notice of action Malice Nonsuit
60 Plea of general issue Evidence Tender of amends Payment into Court. Judgment for defendant Full cost Judgment for plaintiff Judge to certify for costs.
61 Stamp duties
62 Counterfeiting licenses and permits Penalty.
63 Schedules and forms to be read as part of Act Blanks in forms.
64 Interpretation Clause "Local Government" "Settlement" "Station" "Court of Judicature" "Opium" "Chandoo" "Chandoo Dross" "Spirituous Liquors." "Toddy." "Bhang." "Importer" "Chest of Opium." "Ship." Number. Gender.
65 Short Title.

An Act for amending the laws for collecting a Revenue of Excise on Spirituous Liquors and Intoxicating Drugs in the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Preamble.

Whereas it is expedient to amend the laws for the collection of a Revenue of Excise upon Opium, Chandoo, Spirituous Liquors, Toddy, and Bhang, and the granting of Excise Licenses for the sale of the said articles by retail within the Settlement of Prince of Wales' Island, Singapore, and Malacca; It is enacted as follows:

Repeal of Act XIV. of 1851.

I. Act XIV. of 1851 *(for consolidating the laws for collecting a Revenue of Excise on Spirituous Liquors and Intoxicating Drugs, in the Settlement of Prince of Wales' Island, Singapore, and Malacca.)* is hereby repealed, except in so far as that Act repeals any other Regulation or Acts, and except as to Acts done, offences committed, and liabilities incurred before the passing of this Act. Section 53 of Act XIII. of 1856 *(for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.)*

shall be read as if the reference therein made to the said Act XIV. of 1851 were made to this Act.

Duties imposed.

II. All Opium, Chandoo and Opium Dross, and all Spirituous Liquors, and all Toddy and Bhang shall, except as is hereinafter provided, be liable to a duty when used or consumed in any of the Stations of the said Settlement.

Exclusive rights.

III. The exclusive right of making or preparing Chandoo or Opium Dross, and of retailing Chandoo or Opium Dross, or Opium in smaller quantities than one chest; and the exclusive right of retailing Spirituous Liquors, and of making and distilling Spirituous Liquors; and the exclusive right of selling Toddy and Bhang, within the Settlement of Prince of Wales' Island, Singapore, and Malacca, shall be vested from time to time in such persons as the local Government may license for that purpose, either by public or private sale of such exclusive rights, and on such conditions as may be proper to secure the due payment of the rents and revenues of the said farms, and to provide equitable arrangements for the transfer of the stocks of machinery and exciseable articles in the possession of any farmer, at the end of his term of exclusive privilege, to the next succeeding farmer.

Farmer's name.

IV. Any person in whom the exclusive right of making or preparing Chandoo or Opium Dross, and of retailing Opium in smaller quantities than one chest shall be vested, shall be called the "*Opium Farmer* of Prince of Wales' Island," or "of Singapore," or "of Malacca," as the case may be; and the person on whom the exclusive right of retailing Spirituous Liquors, and of making and distilling and compounding Spirituous Liquors shall be vested, shall be called the "*Spirit Farmer* of Prince of Wales' Island," or "of Singapore," or "of Malacca," as the case may be; and the person in whom the exclusive right of selling Toddy and Bhang shall be vested, shall be called the "*Toddy Farmer* of Prince of Wales' Island," or "of Singapore," or "of Malacca," as the case may be.

Farmers to sign contract,

V. No person in whom such exclusive right may be vested, shall use such right until after he shall have entered into a contract in writing with the local Government, binding himself to adhere to the terms of such contract, and to the provisions of this Act: and the several farmers shall

and give security, &c.

give such security as may seem to the local Government to be sufficient for the due fulfilment of their contracts by deposit of money or valuable securities, or by mortgage of real or personal

Government may dispose of securities, &c.,

property or otherwise; and it shall be lawful for the local Government to sell, dispose of, and realize all such property mortgaged, pledged or deposited, without action, suit or other legal procedure for judgment or decree, in any

summarily,

Court of Justice, and to apply the same or the proceeds of sale thereof, or so much thereof as may be required, to liquidate

and apply same to defalcations, &c.

any penalties, forfeitures, damages or losses which may arise or exist against the said farmers at the end of their several terms, before surrendering to them their securities, or making over to them the monies and valuable securities so deposited: Provided

Proviso.

that no such penalties, forfeitures, damages or losses shall be chargeable against any farmer under this Act

till the same shall have been sanctioned, in writing, by the chief Civil Authority in the said Settlement. Such contract and mortgage may be in the form of Schedule A to this Act annexed, or to the like effect.

Form of contract and of mortgage.

Farm of Opium.

VI. *Clause* 1.—Every person importing into any of said Stations any Opium, shall, before landing such Opium or any part thereof, deliver or cause to be delivered to the Registrar of Imports and Exports of the Station, a Bill in form of Schedule B to this Act annexed, or to the like effect, specifying the quantity and description of Opium, the name of the ship, the time of landing, and the place where the said Opium is intended to be stored: whereupon the Registrar of Imports and Exports or his Deputy shall furnish a permit, without fee, in form of Schedule C to this Act annexed, or to the like effect, authorizing the Opium to be landed and stored, in terms of the bill of specifications; and no Opium so stored shall be removed without a permit from the Registrar of Imports and Exports, who shall grant such permit on the application, in writing, in form of Schedule D to this Act annexed, or to the like effect, of the owner or his agent, desiring to remove the same, and stating the place to which it is to be transferred, and before exporting any Opium from any of the said Stations, the intending exporter shall furnish to the Registrar of Imports and Exports of the Station, a Bill in form of Schedule E to this Act annexed, or to the like effect, specifying the quantity and description of Opium to be exported, and the name of the ship, and the place to which the same is to be exported, whereupon the Registrar of Imports and Exports or his Deputy shall furnish, without fee, to the intending exporter, a permit in form of Schedule F to this Act annexed, or to the like effect, authorizing the said Opium to be exported.

Import of Opium.

Bill of specifications.

Permit by Registrar of Imports and Exports to land Opium.

Permit to remove.

Export of Opium.

Permit to export.

Clause 2.—And it shall not be lawful for any person to import or bring into any of the said Stations, or to export or take out from any of the said Stations, any Opium except to or from the principal ports of such station, and within the limits of the said several ports, as laid down under Act XXII. of 1855 (*for the regulation of Ports and Port-Dues*), or any other Act to the like effect to be hereafter passed.

Confined to principal ports.

Clause 3.—Any Opium in smaller quantities than one chest, imported into any of the said Stations, shall be lodged in the office of the Registrar of Imports and Exports, subject to the rules laid down in Section 11 of this Act, and shall not be taken therefrom except for exportation or sale to the Opium Farmer of the Station, as is hereinafter provided.

Opium less than one chest.

Clause 4.—Any person offending against any of the provisions of this Section, shall be liable on conviction to a penalty not exeeeding five hundred dollars; and any Opium so imported or exported, or stored or moved, or attempted to be imported or exported, or stored or moved, contrary to the provisions of this Section, with the

Penalty.

Forfeiture.

packages and vessels in which it is contained, shall be seized and forfeited.

Inspection of Register.

Certified extracts of Register, evidence.

Omission of entries.

VII. The Opium Farmer shall be entitled to inspect and take extracts from the Registry of Imports and Exports, and the production of a copy of any extracts from the said Registry, certified under the hand and seal of the Registrar of Imports and Exports of the Station or his Deputy, shall, on the trial of any person charged with an offence under this Act, in any Court of Justice within the said Settlement, be proof of the facts set out in the said extracts, till the contrary be shown by or for the person so charged, and the omission of entries in the said book shall be proof, till the contrary is shown in like manner, that application has not been made for the permit required.

Search warrant for Opium.

Information.

Penalty.

VIII. Any Justice of the Peace at any of the said Stations, on information on oath lodged before him by the Opium Farmer of the Station or his agent, that there is reason to believe that any Opium has been imported into the said Settlement contrary to the provisions of this Act, or that any Opium imported into and stored in the Station has been removed without a permit, as hereinbefore required, from the place in which such Opium was stored, may issue his warrant in the form of Schedule G to this Act annexed, or to the like effect, to enter and search any place, and if any Opium is found to have been so imported or to be missing from the place in which it was permitted to be stored, the person in whose possession such Opium is found or in whose name such Opium shall have been so stored, shall be liable on conviction to a penalty not exceeding five hundred dollars for every chest of Opium which shall be found to have been so imported or so removed contrary to the provisions of this Act.

Making Chandoo.

Importing Chandoo.

Selling Chandoo.

Having in possession Chandoo.

Proof.

Penalty.

Forfeiture.

IX. Every person other than the Opium Farmer of the Station, who shall make or prepare Chandoo or Opium Dross within the local limits of the jurisdiction of the Court of Judicature of the said Settlement, or who shall import thereinto any Chandoo or Opium Dross except as is hereinafter provided by Section 11 of this Act, or who shall herein sell or offer for sale, or permit to be sold or offered for sale, or who shall purchase, or who shall knowingly have in or receive into his possession or control, any Chandoo or Opium Dross, or Opium in less quantities than one chest, not purchased from the Opium Farmer of the then current year, or a licensed Opium shop-keeper of the Station of the then current year, the onus of proof of which purchase shall rest with the person in whose possession or control the said Chandoo or Opium Dross, or Opium may be found, shall be liable on conviction, for the first offence to a penalty not exceeding one hundred dollars; for the second offence a penalty not exceeding two hundred dollars: and for every subsequent offence a penalty not exceeding four hundred dollars; and all such contraband Chandoo or Opium Dross, and the vessels containing the same, shall be forfeited, and all utensils and vessels which have been used, or which are plainly intended to be used, in preparing Chandoo or Opium Dross, shall be seized and forfeited.

X. Every person, other than the Opium Farmer of the Station, who shall sell or offer for sale, and every person who shall buy from any person other than the Opium Farmer of the then current year, or who shall knowingly receive or have in his possession contrary to the provisions of this Act any quantity of raw Opium less than one chest, shall be liable on conviction, for the first offence to a penalty not exceeding one hundred dollars; for the second offence a penalty not exceeding two hundred dollars: and for every subsequent offence a penalty not exceeding four hundred dollars; and all such Opium, with the packages or vessels in which the same is contained, shall be seized and forfeited: Provided that nothing herein contained shall be held to prevent the sale of raw Opium for exportation under the provisions of Section 12 of this Act.

Raw Opium, selling or buying.

Having in possession.

Penalty.

Forfeiture.

Proviso.

XI. Every person arriving in any ship at any of the said Stations, who may have on board any Chandoo, or any Opium Dross, or any raw Opium in less quantity than one chest, shall, within twenty-four hours after such vessel shall have come to anchor, give notice in writing thereof to the Registrar of Imports and Exports in the form of Schedule B to this Act annexed, or to the like effect, and shall apply to the said Registrar for a permit to land the said Opium or Chandoo or Opium Dross; and the said Registrar or his Deputy shall forthwith issue a permit, without fee, in form of Schedule C to this Act annexed, or to the like effect; whereon the person receiving the permit shall forthwith, and before landing any of the said Opium, Chandoo or Opium Dross, furnish a copy of the said permit to the Opium Farmer of the Station; when the said Opium, Chandoo and Opium Dross shall be forthwith landed and deposited in the office of the said Registrar where it shall remain until exported or sold to the Opium Farmer: and when it is desired to export the same, the owner or agent shall apply, in writing, in form of the Schedule E to this Act annexed, or to the like effect, to the said Registrar for a permit to export; when the said Registrar or his Deputy shall issue his permit, without fee, in the form of Schedule F to this Act annexed, or to the like effect, authorizing the export; and the person receiving the said permit shall forthwith, and before the removal of any of the said Opium, Chandoo or Opium Dross, furnish a copy of the said permit to the Opium Farmer of the Station, and shall at once thereafter proceed to remove the said Opium, Chandoo or Opium Dross from the said office to the ship in which it is to be exported: Provided, always, that no such permit of exportation shall be granted till the person applying for the same shall have produced the port clearance for the ship in which it is intended to export the said Opium, Chandoo or Opium Dross: and provided further, that the permits for landing and for exporting such Opium, Chandoo and Opium Dross, shall specify the name of the ship, the name of the owner of the Opium, Chandoo and Opium Dross, the quantity and description of the same, and the vessels or

Raw Opium or Chandoo arriving.

Notice to land.

Permit to land.

Notice to Farmer.

Deposit.

Permit to export.

Notice to Farmer.

Proviso.

Port clearance.

Specifications in permits.

utensils containing the same, and the time of intended landing or removal from the said office; and any person committing a breach of any of the provisions of this Section shall, on conviction thereof, be liable to a penalty not exceeding two hundred dollars, and the Opium, Chandoo or Opium Dross shall be seized and forfeited.

Penalty.

Forfeiture.

XII. Every person who shall be desirous of exporting or of selling for exportation raw Opium in any quantity less than one chest, shall deposit a chest containing the customary quantity in the office of the Registrar of Imports and Exports; and whenever such person shall apply for any portion of such Opium to be delivered to him or to any purchaser thereof for exportation, he shall deliver to the Registrar of Imports and Exports or his Deputy a written Bill of particulars in form of Schedule E to this Act annexed, or to the like effect, expressing the quantity of Opium that is to be exported, and the name of the person who is about to export the same, and of the ship, and of the master, and of the place to which the same is to be exported, and the time of removal, and having also, in case the Opium mentioned therein is to be sold for exportation, the name of the purchaser written thereon; and the said Registrar or his Deputy shall thereupon cause the quantity of Opium specified in the Bill of particulars to be taken out of such chest and delivered to the person who is to export the same, and shall deliver to such person, without fee, a permit in form of Schedule F to this Act annexed, or to the like effect; and the said Opium shall be exported in terms of the said permit, and such chest shall remain in the custody of the said Registrar or his Deputy, until all the Opium contained therein shall have been exported or sold, when the chest shall be destroyed: Provided that no such Opium shall be removed from the said office till the person desirous of exporting the same shall have furnished to the Opium Farmer of the Station a copy of the said permit, and till after the port clearance for the ship in which the same is intended to be exported shall have been produced to the said Registrar or his Deputy; and every person who shall commit a breach of any of the provisions contained in this Section, shall be liable on conviction to a penalty not exceeding one hundred dollars.

Export of Opium less than one chest.

One chest to be deposited.

Bill of particlars.

Delivery by Registrar.

Permit to export.

Chest emptied.

Proviso.

Notice to Farmer.

Port clearance.

Penalty.

XIII. Every person who shall receive any such permit as aforesaid for the exportation of any quantity of Opium less than one chest, and who shall not, upon receiving the same, within the time named therein, cause such Opium to be conveyed to and placed on board of the vessel mentioned in such permit, shall be liable on conviction to a penalty not exceeding two hundred dollars, and the Opium and the vessels and conveyances in which it is contained shall be seized and forfeited.

Not exporting.

Penalty.

Forfeiture.

XIV. The foregoing provisions of this Act shall not apply to the sale of Opium for medicinal purposes by recognized Medical Practitioners, Chemists, and Druggists.

Exemption.

Farm of Spirituous Liquors.

XV. *Clause.* 1.—Every person importing into any of the said Stations any Spirituous Liquors shall, before landing the same or any part thereof, deliver or cause to be delivered to the Registrar of Imports and Exports of the Station or his Deputy, a Bill in form of Schedule B to this Act annexed, or to the like effect, specifying the quantity and description of such Spirituous Liquors, the name of the ship, and the place where the same is intended to be stored, and the time when it is intended to be landed; whereupon the Registrar of Imports and Exports or his Deputy shall furnish, without fee, a permit in the form of Schedule C annexed to this Act, or to the like effect, authorizing the Spirituous Liquors to be landed and stored in terms of the bill of specifications, which permit shall include all the particulars required in the bill of specifications: Provided, always, that if the said Spirituous Liquors or any portion thereof are intended for use or consumption in the premises of the importer, where they may be stored on importation, he shall before receiving the permit make a declaration in the form of Schedule I to this Act annexed, or to the like effect, signed by him to that effect, and shall pay to the Spirit Farmer for the quantity so intended to be used or consumed the duty leviable under this Act,

Import of spirits.

Bill of specifications.

Permit to land.

Proviso.

Use on premises.

Payment of duty.

Clause 2.—When the permit for landing is received by the importer, he shall forthwith, and before landing or removing the Spirituous Liquors or any portion thereof, furnish to the Spirit Farmer of the Station a copy of the said permit, and the Spirituous Liquors shall be landed and stored in terms of the landing permit: any person offending against any of the provisions of this Section shall be liable on conviction to a penalty not exceeding five hundred dollars, and the Spirituous Liquors shall be seized and forfeited.

Landing spirits.

Notice to Farmer.

Penalty.

XVI. Whenever any ship shall arrive at any of the said Stations, having on board Spirituous Liquors not entered on the ship's manifest and not forming part of the ship's stores or provisions placed on board by the owner, charterer or other person, for the use of the officers, passengers and crew of such ship, the master, supercargo or other person having charge or control over such Spirituous Liquors shall, within twenty-four hours after the arrival of any such ship, cause the said Spirituous Liquors to be landed and stored in the office of the Registrar of Imports and Exports, in the manner provided by Section 15 of the Act for the landing of Spirituous Liquors, and such Spirituous Liquors shall remain in the said office till the departure of the said ship, when they shall be exported in manner provided by Section 18 of this Act: Provided, however, that such Spirituous Liquors or any portion thereof may be sold or removed from the said office, subject to the provisions of this Act for the removal, sale and export of Spirituous Liquors and for the payment of duty thereon; any person convicted of an offence contrary to the provisions of this Section shall be liable to a penalty not exceeding two hundred dollars, and such Spirituous Liquors shall be seized and forfeited.

Spirits on board ships

to be landed.

Exporting.

Proviso for sale.

Penalty.
Forfeiture.

Removal of spirits from place of import storing.

Application to Farmer.

XVII. Every importer desirous of removing any Spirituous Liquors from the place where they shall have been stored on importation, shall apply in writing, in form of Schedule K to this Act annexed, or to the like effect, to the Spirit Farmer of the Station, stating the quantity and description of the Spirituous Liquors, the time of removal, the place to which they are to to removed, and the person or persons into whose premises they are to pass, and except when the Spirituous Liquors are to be removed for exportation as is next hereinafter provided, shall pay or cause to be paid to the said Spirit Farmer the sum of fifty cents of a dollar for every gallon of such Spirituous Liquors, and if in bottles the sum of fifty cents. of a dollar for every four quart bottles or eight pint bottles and a proportionate sum for any lesser quantity; whereupon the said Spirit Farmer, if the application is made between the hours of six in the morning and six in the evening, shall deliver to such person, without fee, a written permit to remove the same in the form of Schedule L to this Act annexed, or to the like effect.

Payment of duty.

Permit for removal.

Export of spirits.

Bill of specifications.

XVIII. Whenever it is intended to export any Spirituous Liquors from any of the said Stations, the intending exporter shall furnish to the Registrar of Imports and Exports of the Station or his Deputy, a bill in the form of Schedule E to this Act annexed, or to the like effect, specifying the quantity and description of the Spirituous Liquors, the owner's name, the name of the ship, and of the place to which they are to be exported, and the time of removal; whereupon the Registrar of Imports and Exports or his Deputy shall furnish a permit, without fee, in the form of Schedule F to this Act annexed, or to the like effect, containing the particulars above required, authorizing the said Spirituous Liquors to be exported by the said applicant, who shall forthwith and before removing the said Sprituous Liquors supply to the Spirit Farmer of the Station a copy of the said permit: Provided, always, that if the quantity of Spirituous Liquors to be exported do not exceed three dozen quart bottles or six dozen pint bottles, it shall not be necessary to apply to the Registrar of Imports and Exports for his permit; but application as hereinbefore provided shall be made to the Spirit Farmer, who in such case shall grant his permit in the form above described without payment of duty for the removal of the said Spirituous Liquors to the ship in which they are to be exported: Provided, further, that the Spirit Farmer shall not be required to grant such permit for exportation till the port clearance of the ship in which Spirituous Liquors are to be exported shall be produced to him: and provided, further, that in the event of any person being desirous of exporting Spirituous Liquors on which the farmer's duty has already been paid, on proof of such payment by the person applying, the Spirit Farmer shall refund to the exporter the amount of duty which may have been paid on the quantity of Spirituous Liquors so to be exported, and shall issue his permit for the exportation

Permit to export.

Notice to Farmer.

Farmer's permit for three dozen.

Proviso.

Port clearance.

Proviso.

Duty already paid.

Proof.

Refund.

Not exporting.

Penalty.

Forfeiture.

thereof; and any person to whom such refund shall have been made neglecting or omitting to cause the said Spirituous Liquors to be exported in terms of the said permit, shall be liable on conviction to a penalty not exceeding five hundred dollars, and the said Spirituous Liquors shall be seized and forfeited.

Subsequent removal of spirits.

Application to Farmer.

XIX. Every person, except as hereinbefore provided in Section 17 of this Act, desirous of removing Spirituous Liquors from one place to another, or from the possession of one person to that of another person, shall apply in writing in the form of Schedule M to this Act annexed, or to the like effect, to the Spirit Farmer of the Station, stating the quantity and description of Spirituous Liquors, the place to and from which they are to be removed, and the person from and to whose possession they are to be removed, and the time of removal; whereupon the said Spirit Farmer shall grant his permit in the form of Schedule N to this Act annexed, or to the like effect, without payment of any fee, for the removal: Provided the duty leviable on the said Spirituous Liquors shall have been already paid to the Spirit Farmer of the then current year: the onus of proof of which payment shall rest with the person applying for the permit.

Farmer's permit.

Proviso for duty.

Proof of payment.

Illicit landing, or exporting, or removing spirits.

Penalty.

Forfeiture.

XX. Any person convicted of having landed or exported, or removed any Spirituous Liquors contrary to the provisions of this Act, shall be liable on conviction to a penalty of one hundred dollars for the first offence; to two hundred dollars for the second offence: and four hundred dollars for the third and every subsequent offence; and the Spirituous Liquors and the vessels in which they are contained shall be seized and forfeited.

Farmer refusing permit.

Application to Justice of the Peace.

XXI. If the Spirit Farmer shall refuse on application as hereinbefore provided to grant his permit for the exportation or removal of any Spirituous Liquors, the person requiring such permit may apply in writing to any Justice of the Peace, furnishing him with a copy of the application made to the Spirit Farmer, and such Justice of the Peace, on security being given to his satisfaction for the amount of duty leviable under the provisions of this Act on the quantity of Spirituous Liquors intended to be removed, shall issue his order in the form of Schedule O to this Act annexed, or to the like effect, under his hand and seal, authorizing the removal of the Spirituous Liquors, and for which order a fee of one dollar shall be paid by the applicant, and if the said Farmer shall thereafter be convicted of an offence under the next succeeding Section of this Act, such fee shall be refunded by the said Farmer.

Security for duty.

Order of Justice of the Peace.

Fee for order.

XXII. The Spirit Farmers at each of the said Stations shall grant their receipt in the form of Schedule P to this Act annexed, or to the like effect for every sum of money received by them as duty under the provisions of this Act, and any Spirit Farmer refusing, without good cause shown, to grant his permit for the exportation or removal of

Receipts by Farmers.

Refusing permit.

Penalty.

Spirituous Liquors under the provisions of this Act, or refusing to grant his receipt as above required, shall be liable on conviction to a penalty not exceeding one hundred dollars.

Search warrant.

Information on oath.

XXIII. Any Justice of the Peace at any of the said Stations, on information lodged before him on oath by the Spirit Farmer of the Station or his agent, that he has reason to believe that Spirituous Liquors imported into the Station have been removed from the place where the same may have been stored on importation under the provisions of this Act, without payment of duty to the said Spirit Farmer, may issue his warrant in the form of Schedule G to this Act annexed, or to the like effect, authorizing the said Spirit Farmer or his agent to enter the place in which such Spirituous Liquors are or shall have been stored and examine the same, and, if it appear that there is any deficiency in the quantity which ought, according to the landing permit of the Registrar of Imports and Exports and the permits granted for the exportation and for the removal of Spirituous Liquors, to be found stored in such place, the person or persons in whose name the landing permit was issued by the Registrar of Imports and Exports or his Deputy may be summoned before any Justice of the Peace of the said Station, and, on proof to his satisfaction that there is a deficiency in the quantity of Spirituous Liquors, such person shall be liable to a penalty not exceeding five hundred dollars, and shall pay to the said Spirit Farmer the duty leviable under the provisions of this Act on the deficiency: Provided, always, that such person shall not be held liable for any deficiency arising from leakage or breakage: and provided, further, that the Spirit Farmer or his agent in serving such warrant shall be accompanied by a Police Officer of the rank of Inspector at least.

Warrant to examine stores.

Deficiency.

Summons.

Penalty.

Duty.

Proviso for leakage, &c.

Proviso.

Service of warrant.

Sugar distilleries.

XXIV. From the passing of this Act, whoever being a manufacturer of sugar, or whoever being in charge of a place for the manufacture of sugar, in the said Settlement, shall be desirous of having a distillery at his sugar manufactory for making or distilling, or rectifying or compounding Spirituous Liquors, shall apply in writing to the Commissioner of Police of the Station within which such sugar manufactory is situated for a license; and in such application shall be inserted the name of the applicant, the situation of his manufactory, and the number and size of the stills he is desirous of keeping; and the Commissioner of Police shall grant such license renewable every year under his hand and seal to the applicant, on payment of a fee of ten dollars: and such license shall be registered in the Police Office of such Station or place.

License.

Fee.

Registry.

Distiller selling, &c.

Selling, &c., for exportation.

160 gallons.

XXV. No licensed distiller shall be at liberty to sell to any person other than the Spirit Farmer of the Station, or to sell, send out of or deliver from his distillery for exportation, any Spirituous Liquors in a less quantity than one hundred and sixty imperial gallons, or, if in bottles, in a less quantity than fifty dozen of quart

bottles or one hundred dozen of pint bottles; and every licensed distiller who shall sell, send out or deliver, or permit to be sold, sent out or delivered from his distillery, any Spirituous Liquors (except as aforesaid) shall on conviction for every such offence be liable toa penalty not exceeding one hundred dollars, and such Spirituous Liquors and the vessels in which the same are contained shall be seized and forfeited.

Penalty.

Forfeiture.

XXVI. Every person, other than the Spirit Farmer or a licensed distiller, who shall make or distil, or rectify or compound any Spirituous Liquors, or shall knowingly keep or have in his possession any still or other utensil or apparatus, or part of such still, utensil or apparatus, for distilling or making, or rectifying or compounding Spirituous Liquors, shall on conviction for every such offence be liable to a penalty not exceeding one hundred dollars: and all such Spirituous Liquors, and every such still or other utensil or apparatus, or portion of such still, utensil or apparatus, shall be seized and forfeited, but nothing contained in this or any other Section of this Act shall be construed to extend to distillations for medicinal or scientific purposes.

Illicit distillation.

Having still in possession.

Distilling.

Penalty.

Forfeiture.

Exemption.

XXVII. Every person, other than the Spirit Farmer or persons duly licensed under the provisions of this Act for the sale of Spirituous Liquors, who, within the said Settlement, shall sell or purchase except for exportation any Spirituous Liquors on which the duty leviable under this Act shall not have been paid to the Spirit Farmer, and every person as aforesaid who shall knowingly have in his possession, custody or control, any Spirituous Liquors sold or purchased without such payment of duty, shall be liable on conviction to a penalty not exceeding one hundred dollars for the first offence; two hundred dollars for the second offence; and four hundred dollars for the third and every subsequent offence; and the Spirituous Liquors with the vessel in which they are contained shall be forfeited: Provided that it shall be incumbent on the person in whose possession any Spirituous Liquor shall be found to show that the duty leviable under this Act has been paid to the Spirit Farmer.

Dealing in spirits illicitly.

Having in possession.

Penalty.

Forfeiture

Proviso, onus of proof.

XXVIII. All Spirituous Liquors imported, landed, removed in or exported from any part of the said Settlement on account of Her Majesty's Government, are exempt from the operation of this Act.

Exemption for Government.

Farm of Toddy and Bhang.

XXIX. Every owner, renter or occupier of lands within the said Settlement, producing Toddy and Bhang, shall cause the said lands to be registered at the Office of the Collector of land revenue of the Station, and shall furnish to the said Collector a statement, in writing, describing the locality of the said lands, and containing full particulars as to the number of trees used for producing Toddy, and the extent of ground cultivated with Bhang, and from time to time as alterations take place in the num-

Registry of Toddy and Bhang lands.

Particulars.

bers of such trees, and in the extent of ground so cultivated with Bhang, shall report such alteration to the said Collector, who shall cause the said particulars to be entered in a book to be kept for that purpose in his office, which book shall at all reasonable times be open to the Toddy Farmer or his agent, without fee in that behalf: and any person convicted of an offence against the provisions of this Section shall be liable to a penalty of one hundred dollars: Provided, further, that, on the trial of any person charged under this Section, the production of an extract from the said book of registry, signed by the said Collector of land revenue or his Deputy, shall be proof of the facts stated in the said extract till the contrary be shown by the person charged, and the omission of full and correct entries relating to the lands as to which the charge is made shall be proof against the owner, renter or occupier, that such lands have not been so registered.

Registry book.

Inspection of book.

Penalty.

Proviso for proof.

XXX. Any Justice of the Peace, on the information on oath of the Toddy Farmer of the Station or his agent, that there is good reason to believe that Toddy or Bhang is produced on lands in the said Settlement not duly registered under Section 29 of this Act, may issue his warrant in the form of Schedule G to this Act annexed, or to the like effect, authorizing the Toddy Farmer or his agent, accompanied in either case by a Police Officer, to enter in and examine such lands, and the Toddy Farmer may apply to any Justice of the Peace for a summons against the owner, occupier, or other person in charge of such lands, if not registered, or the person in whose name such lands are registered, to appear at the Police Court at the Station to answer any charge under Section 29 of this Act, and any person so summoned to appear, on being convicted of an offence against Section 29 of this Act, shall be liable to punishment as is provided by the said Section: Provided that such Justice of the Peace may issue his warrant, either before or after the issue of such summons, to compel the appearance of any person charged on the information on oath of such Toddy Farmer or his agent, with having committed an offence against Section 29 of this Act.

Search warrant

To examine lands.

Summons.

Penalty.

Proviso.

XXXI. No person, other than the Toddy Farmer of the Station, shall import or export any Toddy or Bhang into or from the said Station, except in the case of imports for sale to the Toddy Farmer of the Station: and any Toddy or Bhang imported into any of the Stations shall be at once taken to the principal shop of the Toddy Farmer at the Station and there sold or delivered to such Toddy Farmer at such price as may be fixed from time to time by the local Government: Provided, always, that if the Toddy Farmer shall refuse to purchase any Toddy or Bhang so imported, the importer shall forthwith export the same: any person committing a breach of the provisions of this Section shall be liable on conviction to a penalty not exceeding one hundred dollars, and the Toddy or Bhang found with such person shall be seized and forfeited.

Import of Toddy and Bhang.

Price.

Proviso.

Export again.

Penalty.

Forfeiture.

XXXII. Every person within the said Settlement who shall sell

Dealing in Toddy or Bhang.

or offer for sale, except to the Toddy Farmer of the Station, and every person as aforesaid who shall purchase from any person other than the Toddy Farmer of the Station of the then current year, or from a licensed Toddy shop-keeper of the then current year, or who shall knowingly have in his possession any Toddy or Bhang, not purchased by him from such Toddy Farmer or registered Toddy shop-keeper, the burthen of proof of which purchase shall rest on the person charged, shall be liable on conviction to a penalty not exceeding one hundred dollars, and all such Toddy or Bhang shall be seized and forfeited.

Having in possession.

Burthen of proof.

Penalty.

Forfeiture.

Places of Public Entertainment where Spirituous Liquors are sold to be used on the Premises.

XXXIII. All Hotels, Inns, Taverns, Eating-Houses, Punch-Houses, and other houses of public entertainment in any of the Stations of the said Settlement, in which it is desired to sell Spirituous Liquors, and which are already licensed under any Act of the Legislative Council of India for regulating such dlaces, shall be registered in a book to be kept for that purpose by the Commissioner of Police of the Station, yearly, in the last ten days of the month of April or at such other time as may be directed by the local Government: and such Commissioner of Police shall grant a license in the form of Schedule H to this Act annexed, or to the like effect, to the person desirous of opening or keeping such place of public entertainment, authorizing such person to sell by retail Spirituous Liquors under the provisions of this Act, so that the same be used or consumed in the licensed houses in which they may be purchased; and the said licensed houses may be classed by the Commissioner of Police, with the sanction of the local Government, in three classes according to the importance of the establishment and the quantity of Spirituous Liquors likely to be consumed therein, and for such licenses a fee shall be paid, yearly, as follows; that is to say:—

Hotels, &c.

To be registered.

License

to sell for consumption on premises.

Three classes.

Fees.

For a 1st Class House		...	...	Dollars	100
„ 2nd	„	...	...	„	75
„ 3rd	„	...	...	„	50

and any person, after the 30th day of April in each year or such other time as may be fixed by the local Government for the determination of the Spirit Farmer's privileges, selling Spirituous Liquors in such houses without having first obtained a license for the year, as required by this Section; and any person selling or buying Spirituous Liquors in such houses, and taking the same away from such houses or allowing the same to be so taken away, shall be liable on conviction to a penalty not exceeding fifty dollars, and the said Spirituous Liquors shall be seizedand forfeited.

Penalty.

Forfeiture.

Licensed Shops for sale of Exciseable Articles.

XXXIV. All houses or shops for the retail sale of Opium, Chandoo, Spirituous Liquors, Toddy and Bhang, shall be registered in a book to be kept for that purpose by the Commissioner of Police at each of the said Sta-

Licensed shops to be registered.

tions, who shall, subject to the sanction of the local Government, grant to the applicant a license under his hand and seal in form of Schedule Q to this Act annexed, or to the like effect, for each shop so to be used, in such numbers and in such situations as he shall, with the sanction of the local Government, determine: and before granting any such license, the Commissioner of Police or his Deputy shall cause to be read over and explained to the applicant the rules and regulations next hereinafter provided for, and the said applicant shall sign his name or make his mark in the presence of the said Commissioner or his Deputy, in the book in which the said rules and regulations are inscribed, in acknowledgment, that the said rules and regulations have been read over and explained to him: and a printed copy of such rules and regulations shall be posted in a conspicuous place in every such licensed shop: and any person opening or keeping a house or shop for such purpose without such license, or committing a breach of such rules and regulations, shall be liable on conviction to a penalty not exceeding one hundred dollars.

Licenses.

Numbers and situations.

Acknowledgement of Keeper in book of Rules.

Copy of Rules.

Penalty.

XXXV. The Commissioner of Police at each of the said Stations shall from time to time, with the sanction of the local Government, draw up and publish rules for the better management of such houses or shops and maintaining order therein, the times for opening and shutting the shops, and the signboards or other distinctive marks to be affixed to such houses or shops; and it shall be lawful at all times for the Commissioners of Police, their Deputies, and all superior Officers of Police to be named by the Commissioners in the rules to be published by them, to enter without warrant any of the said licensed houses or shops purporting to be so licensed, and to arrest and take into custody without warrant any persons found in such houses armed, or making a disturbance, or gambling or committing any breach of the peace: and any person so found armed, or making a disturbance, or gambling or committing a breach of the peace, shall on conviction be liable to a penalty not exceeding fifty dollars. A fee of ten dollars shall be charged for every such license, to be paid by the person applying therefor, together with such reasonable sum as may be sufficient to cover the cost of the signboard or distinctive mark to be supplied to the said shop-keepers by the Commissioner of Police as aforesaid; such charge to be fixed by the Commissioners of Police with the sanction of the local Government.

Rules to be framed.

Particulars.

Police visits.

Arrest of Armed persons, Disturbers, Gamblers, Breakers of the Peace.

Penalty.

Fee for license.

Cost of signboards.

XXXVI. The Commissioner of Police at each of the said Stations, with the sanction of the local Government, may cancel the license of any person licensed to keep a shop under the provisions of this Act.

Cancelment of license.

XXXVII. Any keeper of a licensed shop under this Act, knowingly permitting gambling to be carried on in his shop, or knowingly permitting armed persons to be in his shop, shall be liable on conviction to a penalty not exceeding one hundred dollars.

Gambling.

Armed persons.

Penalty.

Exciseable articles not purchased from Farmers.

XXXVIII. Every keeper of an Opium shop, Spirit shop, or Toddy shop, licensed under Section 34 of this Act, who shall sell or knowingly have in his possession any Opium, Chandoo, Spirituous Liquors, Toddy or Bhang, which shall not have been purchased from the respective Farmers of the Station, proof of which purchase shall rest with the person charged, shall be liable on conviction to a penalty not exceeding one hundred dollars, and the Opium, Chandoo, Spirituous Liquors, Toddy or Bhang shall be forfeited.

Proof.
Penalty.
Forfeiture.

Selling, except for coin.

XXXIX. Every Farmer under this Act, and every keeper of any house or shop registered under this Act, who shall sell or exchange Opium, or Chandoo, or Opium Dross, Spirituous Liquors, Toddy or Bhang, otherwise than for the coin usually current within the said Settlement, shall forfeit a penalty not exceeding 25 dollars.

Penalty.

Exchange for servants' wages.
Penalty.

XL. Every person within the said Settlement, who shall deliver to any servant or labourer any Opium, Chandoo, Opium Dross, Spirituous Liquors, Toddy or Bhang in consideration of wages or hire due to such servant or labourer, shall forfeit a penalty not exceeding fifty dollars.

Sale to soldiers.

XLI. Any Farmer or person licensed under this Act, who shall knowingly sell or deliver to any European or Native soldier any Opium, Chandoo, or Opium Dross, Spirituous Liquors, or Toddy or Bhang, without having an authority in writing from the Commanding Officer of such soldier, shall be liable on conviction to a penalty not exceeding fifty dollars.

Penalty.

Adulterated Spirits or Toddy.
Penalty.
Destruction of articles.

XLII. Any person in the said Settlement selling or offering for sale Spirituous Liquors or Toddy adulterated or compounded in such a manner as to be injurious to health, shall be liable to a penalty not exceeding one hundred dollars, and all such injurious articles shall be destroyed.

Compounding for offences.

XLIII. Any Farmer under this Act who shall, either by himself or by the means of any other person, take from any person who may have committed or be suspected of having committed a breach of any of the provisions of this Act, any sum of money or any goods or chattels, or other consideration whatsoever, as a compromise, reward, or payment for not prosecuting such person for such offence, shall be liable on conviction to a penalty not exceeding two hundred dollars.

Penalty.

Sale by outgoing Farmers near end of term.

XLIV. No Farmer or keeper of a licensed shop for the sale of exciseable articles under this Act, shall sell any exciseable articles near the end of the term of the exclusive privilege of the Farmer, or at any time during such exclusive privilege, so as in either case to authorize the use by the purchaser of such exciseable articles at any time after twelve o'clock at noon of the 2nd day of May of each year, or thirty-six hours after such other time as may be fixed for the termination of the exclusive privilege of the Farmer: and any person found with any exciseable articles in his possession which have not been purchased from the Farmer of the term in which the time of seizure of such articles shall happen to be, except for thirty-six

Articles found sold contrary to this Section.

hours after expiry of such term as aforesaid, shall be liable to all penalties and forfeitures to which a person may be liable under this Act, if such articles had not been purchased from a Farmer or licensed shop-keeper.

Penalties and forfeitures.

License and Permit Fees.

XLV. All fees received for registering licenses to keep Opium shops under this Act, shall be paid to the Opium Farmer for the time being; and all fees received for registering licenses to keep Spirit shops and distilleries and houses of entertainment registered under this Act for the sale of Spirituous Liquors, and all fees for permits to remove Spirituous Liquors under this Act, shall be paid to the Spirit Farmer for the time being; and all fees received for registering licenses to keep Toddy shops for the sale of Toddy and Bhang under this Act, shall be paid to the Toddy Farmer for the time being: and all fines and penalties whatsoever received under this Act shall, after the adjudication at the discretion of the Justices of the Peace or Magistrate of a portion of such fines and penalties to the informer, be paid into the municipal fund, established under Act XXVII. of 1856 (*for appointing Municipal Commissioners, and for levying rates and taxes, in the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), or that may be established by any future Act, of the Station at which such fines and penalties shall be imposed, to be applied to the general purposes of the said Act; and all articles subject to restriction under this Act, seized and forfeited, when the same shall not be ordered to be destroyed as unwholesome, shall be given to the Farmer prosecuting the case.

Fees for licenses to Farmers.

Fines and penalties.

Informer's share. Municipal Fund.

Forfeitures for Farmers.

Revenue Officers.

XLVI. The Commissioner of Police at each of the Stations in the said Settlement may grant his warrant in form of Schedule R to this Act annexed, or to the like effect, to such agents or servants of the several Farmers named in this Act as may be approved of by the said Commissioner of Police, with the sanction of the local Government, to act as Revenue Officers at the Station in which they may be appointed: and no persons except those so appointed, and except the members of the Police Force enrolled under the provisions of Act XIII. of 1856 (*for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), or any Act to be hereafter passed to the same effect, shall be competent to act as Revenue Officers under this Act: and such warrants may at all times be withdrawn by the Commissioner of Police, with the sanction of the local Government, and any person other than a Police Officer assuming to act as a Revenue Officer under this Act, and not holding such warrant, shall be liable on conviction to a penalty not exceeding fifty dollars. The names and places of residence of every Revenue Officer so appointed shall be posted in a conspicuous place at the Police Courts of the Station.

Warrants to act

To approved persons.

Acting without warrant.

Police Officers.

Withdrawing of warrant.

Penalty.

Names to be posted.

XLVII. Every Revenue Officer appointed under this Act shall be supplied, at the expense of the Farmer requiring his appointment, with a brass plate or staff bearing such sign or mark of office as may be directed by the Commissioner of Police, with the sanction of the local Government: and before acting against any person under the provisions of this Act, every such Revenue Officer shall declare his office and produce to the person against whom he is about to act his said sign or mark of office. Every Police Officer acting under the provisions of this Act, if not in the uniform proper to his service, shall, in like manner, declare his office and produce to the person against whom he is about to act such part of his public equipment, as the Commissioner of Police shall have directed or may direct to be carried by Police Officers when employed in secret or special service: and any person who shall, after production of such sign or mark or equipment of office, obstruct any such Police or Revenue Officer in the exercise of his duties under this Act, shall be liable on conviction to a penalty not exceeding fifty dollars.

Badges for Revenue Officers.

Rules for acting.

Revenue Officers.

Police Officers.

Obstructing Officers.

Penalty.

XLVIII. Any person who as aforesaid shall assault or beat any such Police or Revenue Officer, while so as aforesaid in the execution of his duty under the provisions of this Act, shall be liable on conviction to a penalty not exceeding one hundred dollars: and it shall be lawful for such Officers so resisted to oppose force to force and to execute their office or duty.

Assaulting Officers.

Penalty.

Opposing force to force.

XLIX. Every Police or Revenue Officer who shall extort or attempt to extort, or take from any person, any money or valuable consideration as a bribe under pretence of this Act; and every person who shall offer to any Police or Revenue Officer any such bribe; and every Police or Revenue Officer who shall maliciously and without reasonable grounds arrest or detain any person under the provisions of this Act, or who shall not with the least practicable delay take any person so arrested before some Justice of the Peace for examination, shall be liable on conviction to a penalty not exceeding fifty dollars.

Extortion.

Bribery.

Malicious charges.

Delay in going before Justice of the Peace.

Penalty.

Procedure.

L. Any Justice of the Peace within the said Settlement may, by his warrant in the form of Schedule S to this Act annexed, or to the like effect, directed to any Police Officer within the said Settlement or to any Revenue Officer or Officers appointed in manner hereinbefore mentioned, empower him by day or by night (but if between the hours of six o'clock in the night and six in the following morning, then such warrant to be executed by or in the presence of a Peace Officer), to enter and search any dwelling-house, shop or other building or place, or any ship lying or being within the local limits of the jurisdiction of the Court of Judicature, in any case in which there shall appear to such Justice of

Search warrants.

To Police Officer.

To Revenue Officer.

By day light.

On land.

At sea.

the Peace, upon the oath of any person, good and sufficient cause to believe that, in any such dwelling-house, shop or other building, or other place, or on board any ship lying or being within the local limits of the jurisdiction of the said Court, is concealed or deposited any article subject to forfeiture under this Act, and to take possession of any such article found to be concealed or deposited therein, and of all utensils used for preparing Chandoo or plainly intended for such use, and all stills or other apparatus used for distilling Spirituous Liquors, or portions of stills or apparatus plainly intended for such use, and to arrest and take any person or persons being in such dwelling-house, shop or building, or other place, or on board any ship lying or being within the local limits aforesaid, in whose possession, custody or control any such article may be found, or whom the said Officer or Officers may have good and sufficient reason to suspect to have concealed or deposited therein any such article; and any Officer to whom such warrant shall be directed may in any case of resistance, break open any outer or inner doors of such dwelling-house, shop or other building, or other place, and enter thereinto, and forcibly enter any ship lying or being within the local limits aforesaid, and remove by force any obstruction to such entry, search, seizure, and removal as aforesaid: Provided, always, that all informations to be laid, and all warrants to be issued, and all arrests and seizures to be made under this Act, may be had or done on a Sunday as well as on any other day.

Information.

Contraband articles.

Utensils.

Arrest on suspicion.

Break open doors.

Entry on ship.

Seizure.

LI. If any person shall be found committing any act in breach of this Act, or if any Peace or Revenue Officer shall have probable cause to believe that any person has concealed upon his person any article subject to forfeiture under this Act, such Peace or Revenue Officer may immediately arrest such person without a warrant, and shall thereupon immediately take such person before some neighbouring Justice of the Peace, who shall determine if there be reasonable grounds of suspicion, and such Justice of of the Peace may direct such person to be immediately searched, and such Justice of the Peace, if he sees grounds for believing that an offence has been committed against the provisions of this Act, shall thereon admit the person so charged to bail on his recognizance in form of Schedule T to this Act annexed, or to the like effect, with such securities as to the said Justice of the Peace shall seem sufficient, to appear before him or some other Justice of the Peace or Magistrate of Police, at a Police Court at the Station to answer the charge, and if the person so charged shall not give such security for his appearance, such Justice of the Peace shall issue his order in writing in the form of Schedule V to this Act annexed, or to the like effect, directing the person so charged before him to be taken to the principal Police lock-up at the Station with any articles subject to forfeiture under this Act, found or said to have been found with such person, and there to be kept till bail be given to the satisfaction of the same or any other Justice of the Peace, for the appearance of such person to stand his

Offences on view.

Concealment on person.

Arrest.

Search by Justice of the Peace.

Bail.

Commitment in default of bail.

Detention.

trial for the offence charged at a Police Court in the Station, and in the default of such bail to be kept in the said lock-up till the trial of the offence: Provided that no person so kept for want of bail shall be detained for any period exceeding two days: and if any person who shall have entered into recognizance to appear as above, shall not appear as required, the Justice of the Peace or Magistrate before whom he was to have appeared shall, on application, certify such non-appearance on the back of such recognizance, whereupon the sum thereby acknowledged to be due shall be recoverable in the manner provided by this Act for levying penalties.

Proviso, time of detention.

Default of appearance.

Summary Procedure.

LII. It shall be lawful for any Justice of the Peace or Magistrate before whom a charge shall be laid against any person for a breach of any of the provisions of this Act, on being satisfied that a summons has been duly served on the person charged to appear to answer the charge or in case the person charged shall have been admitted to bail to appear, and in either case such person shall not appear according to the exigence of the summons or bail-bond, and no sufficient cause shall be shown for such non-appearance, to proceed to the hearing of the charge as if such person charged were present.

Proceeding ex-parte.

LIII. It shall be lawful for the local Government to direct the suspension and withdrawal of any charge or proceedings before any Justice of the Peace or Magistrate under this Act, and to cancel and annul and reverse in whole or in part any order, charge, conviction or other proceeding under this Act, and to direct the refund of the whole or any part of any fine or penalty, and the restoration of the whole or any portion of any articles ordered to be forfeited to any person from whom the same may have been taken, and to remit the whole or any part of any sentence of imprisonment passed under this Act.

Remission of sentences.

LIV. All penalties under this Act may be imposed on conviction of the offender, by confession of the offender or by the oath of one or more witnesses before two Justices of the Peace or a Magistrate of Police, at a Police Court in the Station; and in case of non-payment of any penalty imposed or forfeited under this Act, the convicting Justices or Magistrate may issue their warrant of distress in the form of Schedule W to this Act annexed, or to the like effect, under their hands and seals, directed to any Peace Officer to levy the amount of such penalty by seizure and sale of any goods of the offender which may be found within the jurisdiction of such Justices or Magistrate: and if no such property shall be found within such jurisdiction, then the aforesaid Justices or Magistrate, by warrant under their hands and seals in the form of Schedule X to this Act annexed, or to the like effect, may commit the offender to prison, with or without hard labour, for any period not exceeding two calendar months where a pecuniary penalty of twenty-five dollars shall be imposed, and in the same proportion for any greater penalty which shall be imposed: Provided, always, that in case it shall appear to such Justices of the Peace or Magistrate, by the confession of the offender or in any other manner, that he has no goods whereon to levy such distress, then and in every such

Convictions.

Warrant of distress.

Commitment in default of distress.

Form of warrant of commitment.

Periods of imprisonment.

Commitment without distress.

case it shall be lawful for such Justices of the Peace or Magistrate, if they shall deem it fit, instead of issuing such warrant of distress, by warrant under their hands and seals in the form of Schedule Y to this Act annexed or to the like effect, to commit the offender to prison, with or without hard labour, for any period not exceeding two calendar months where a pecuniary penalty of twenty-five 25 dollars shall be imposed, and in the same proportion for any greater penalty which shall be imposed : Provided, always, that in no case shall the term of imprisonment exceed two years.

Warrant of commitment.

Commutation of penalties.

LV. All convictions under this Act may be in the form of Schedule Z to this Act annexed, or to the like effect, and no conviction or order shall be quashed or set aside for want of form or otherwise, and no warrant of commitment shall be held void by reason of any defect therein : Provided it be alleged therein that the party charged has been convicted of the offence, and to the punishment set out in the warrant of commitment: Provided there be a conviction as aforesaid to that effect, and no conviction or order under this Act shall be removed by *certiorari* or otherwise into the Court of Judicature, except as next hereinafter mentioned.

Form of conviction.

Not to be quashed for formal defects, &c.

Certiorari.

LVI. If any person shall feel himself aggrieved by any adjudication by such Justices of the Peace or Magistrate of Police, such person shall, within one week from the day of the said adjudication, give notice in the form of Schedule AA to this Act annexed, or to the like effect, to the Justices of the Peace or Magistrate who shall have adjudicated, and to the opposite party, of his intention to appeal, stating in such notice the grounds of appeal; whereupon the said Justices of the Peace or Magistrate shall cause a transcript of the proceedings, including, the charge, the evidence, and the adjudication, conviction or order, to be drawn up in the form of Schedule BB to this Act annexed or to the like effect, and as soon as reasonably convenient to be transmitted, certified under their hands and seals, to the Court of Judicature at the Station : Provided, always, that no such proceedings in appeal shall be allowed till the person desiring to appeal shall have lodged a sum sufficient to cover the costs of preparing the transcript, not exceeding the sum of six cents per folio of ninety words contained in the said transcript, and shall have given security to the satisfaction of the said Justices of the Peace or Magistrate, in any sum not exceeding two hundred dollars, to answer for the costs of the said appeal, to be taxed by the proper Officer of the said Court of Judicature, and further security for the due payment of any penalty adjudicated or to be adjudicated in appeal against the person desiring to appeal: and provided, further, that if any person desiring to appeal shall have been sentenced to imprisonment, with or without hard labour, it shall be lawful for the said Justices of the Peace or Magistrate to have brought before them in custody such person by their order in form of Schedule CC to this Act annexed, or to the like effect, under their hands and seals addressed to the Sheriff of the said

Appeal.

Week's notice.

Grounds of appeal.

Transcript to be sent

To Court of Judicature.

Deposit for costs of transcript.

Security for costs.

Security for judgment.

Respite of sentence.

Order to bring up persons in prison.

Settlement, or to the Keeper of the Jail or House of Correction, or other place in which such person may be confined, who shall thereupon produce or cause to be brought before the said Justices of the Peace or Magistrate of the Police the person required by the said order to be produced before them, and they shall admit such person to bail on good and sufficient security being given to their satisfaction for the surrender of such person after the hearing of the appeal to undergo his said sentence, or to pay his penalty and costs, or to be discharged; and if any person so bound over to appear shall not thereafter in pursuance of the terms of the bail-bond so appear and undergo the sentence or pay the penalty and costs required, such recognizance may be forfeited by any Justices of the Peace or Magistrate of Police sitting at the said Court, and on such non-appearance being certified on the back of the said bail-bond, the amount thereof shall be levied on the goods and effects of the defaulter and his sureties in the manner provided by this Act for the levy of fines and penalties, and such security for costs or for the payment of any penalty shall be in the form of Schedule DD to this Act annexed, or to the like effect.

Bail.

Default of appearance.

Summary procedure.

Form of security.

LVII. On the transmission of the said transcript, the said appeal shall be entered on the list of cases for trial on the civil side of the said Court, and shall be disposed of with the other business before the said Court, subject to such rules as to time and order of hearing as may from time to time be made by the Judges of the said Court. The Judges of the said Court shall give judgment in the said appeal after hearing the parties or their advocates or law agents, and may affirm or reverse or alter the adjudication of the said Justices of the Peace or Magistrate, with or without costs to be paid as shall be ordered by the said Judges, as justice may seem to require: Provided, always, that the said Judges may order the witnesses examined or tendered for examination in the Police Court in the cases on either side, to be further examined if it shall appear to them to be necessary for the due determination of the appeal, and the Registrar of the said Court shall immediately on the determination of the said appeal certify under his hand and seal to the Justices of the Peace or Magistrate, the judgment of the said Court on such appeal, whereupon the said Justices of the Peace or Magistrate shall forthwith put into execution the said judgment: Provided, always, that no such adjudication shall be over-ruled or altered by reason of defect of form in the charge, evidence, or adjudication or other proceeding, nor otherwise than on the merits of the case, so as substantial justice shall best be attainable and without reference to form.

Appeal to be entered on list.

Rules for hearing appeals.

Judgment of Court.

Costs.

Further evidence.

Registrar of Court to certify the judgment of Court.

Execution of judgment.

No appeal for mere defect of form.

LVIII. On any trial before any Justice of the Peace or Magistrate, and in any proceedings on appeal in the Court of Judicature, relating in any of the above cases to any seizure of contraband articles under this Act, it shall be lawful for the Judges of the said Court and for the Justices of

Seizures not to be enquired into.

the Peace and Magistrate, and they are hereby respectively authorized and required, to proceed to trial and hearing of appeals on the merits of the case without reference to matters of form, and without enquiring into the matter or form of making any seizure.

Trials to be on merits.

LIX. All actions and prosecutions against any person, which may be lawfully brought for any thing done under the provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise, and notice in writing of such action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action; and in every such action, it shall be expressly alleged in the petition of complaint that the act complained of was done maliciously and without reasonable or probable cause, and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be non-suited, or a verdict shall be given for the defendant.

Actions.

Limitation, three months.

Notice of action.

Malice.

Non-suit.

LX. The defendant in any such action may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and if a verdict shall pass for the defendant, or the plaintiff shall become non-suit or discontinue any such action, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereupon.

Plea of general issue.

Evidence.

Tender of amends.

Payment into Court.

Judgment for defendant.

Full costs.

Judgment for plaintiff.

Judge to certify for costs.

LXI. All permits required to be granted by the Registrar of Exports and Imports or any Farmer, and all licenses granted under this Act, shall be exempt from stamp duties.

Stamp duties.

LXII. Any person who shall counterfeit, erase, alter or falsify any license authorized to be issued by this Act, or any permit required to be granted by this Act, or who shall alter or publish as true any such counterfeited, erased, altered or falsified license, knowing the same to be counterfeited, erased, altered or falsified, shall, on conviction thereof in the Court of Judicature, be punished by imprisonment for any period not exceeding five years, with or without hard labour, or in the discretion of the said Court shall be liable to a penalty not exceeding one thousand dollars.

Counterfeiting licenses and permits.

Penalty.

Schedules and forms to be read as part of Act.

Blanks in forms.

LXIII. The Schedules to this Act annexed, and the directions and forms therein contained, shall be deemed and taken to be parts of this Act, and the several blank spaces in the said forms shall be filled up as required by the provisions of this Act relating thereto.

Interpretation of Words.

Interpretation Clause.

LXIV. *Clause* 1.—In this Act, unless there be something repugnant in the subject or context—

"Local Government."

"Local Government" shall mean the Governor of the Settlement or other person performing the duties of Governor at the Station in which the Governor or such other person may then be resident, and the Resident Councillors or other persons performing the duties of Resident Councillors at the Stations in which the Governor or such other person may not then be residing.

"Settlement."

"Settlement" shall mean the Settlement of Prince of Wales' Island, Singapore, and Malacca, with the places now or at any time hereafter to be subordinate or attached thereto, and shall include such portion of the sea along the shores of the said Settlement as may be within the local limits of the jurisdiction of the Court of Judicature of the said Settlement.

"Station."

"Station" shall mean any one of the Stations of Prince of Wales' Island, Singapore, and Malacca, and the places now or at any time hereafter to be subordinate or attached thereto, and shall include such portion of the sea along the shores of the said Station as is within the local limits of the jurisdiction of the Court of Judicature of the said Settlement.

"Court of Judicature."

"Court of Judicature" shall mean Her Majesty's Court of Judicature of the Settlement of Prince of Wales' Island, Singapore, and Malacca, and the several Divisions thereof.

"Opium."

"Opium" shall mean any kind of Opium not prepared for smoking, chewing, or eating.

"Chandoo."

"Chandoo" shall mean any preparation of Opium or any preparation in which Opium forms an ingredient, used for smoking, chewing, or eating.

"Chandoo Dross."

"Chandoo Dross" shall mean Chandoo already used for smoking.

"Spirituous Liquors.

"Spirituous Liquors" shall include spirits, or distilled waters intended for human consumption, and any liqueur or compound of spirits with fruit, sugar, honey or other sweet or bitter principle, or vegetable production.

"Toddy."

"Toddy" shall mean the juice prepared or unprepared of the cocoanut or other tree of the palm species.

"Bhang."

"Bhang" shall mean any intoxicating drug or vegetable production other than Opium used for smoking or eating as a stimulant or narcotic in its raw or prepared state, except medical preparations kept and administered by medical practitioners as medicines for the cure or relief of diseased persons.

"Importer."

"Importer" shall mean the person who shall take or receive from on board any ship, whether lying within or without the jurisdiction of the Court of Judicature, and who

shall bring or cause to be brought to land within the Settlement of Prince of Wales' Island, Singapore, and Malacca, any articles subject to duty or restrictions under this Act, and shall also include any person who shall bring or cause to be brought into the said Settlement any such articles by land.

"Chest of Opium."

"Chest of Opium" shall mean the package with the Opium contained therein, such as it is usually imported by merchants in the said Settlement.

"Ship."

"Ship" shall include every kind of vessel used for the conveyance of persons or things on fresh or salt water.

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

Short Title.

LXV. This Act may be cited for all purposes as "The Straits' Excise Act of 1866."

SCHEDULE.

A.

EXCISE REVENUE.

Farmer's Contract.

(*Farmer's name*) having been declared to be the————Farmer of————for term commencing on the————day of————18—— and ending on the————day of————18——, and he having offered———— as sureties for the due fulfilment of the terms of this contract (*or* and certain real [*or* personal] estate having been assigned by him to the local Government as security by way of mortgage, under the provisions of the Straits' Excise Act of 1866, by the deed annexed to this Contract, *or* Dollars————having been lodged in the local treasury by the said————Farmer as a deposit). THIS CONTRACT between the local Government and the said————Farmer and his sureties————and———— witnesseth that all the rights and privileges of———— Farmer of————under the provisions of the Straits' Excise Act of 1866, are hereby vested in the said———— for the aforesaid term. The said———— ————(*Farmer*) and his sureties———— and————for themselves, their executors, administrators and assigns, do hereby covenant and agree to pay to the local Government, without demand, the sum of Dollars———— monthly, on the last day of every month, commencing on the———— day of the month of————18——, and ending on the————day of the month of————18——, as the rent of the said————Farm, and further covenant and agree that the said————Farmer shall well and faithfully observe, perform, and fulfil the several provisions, conditions, and stipulations contained in the said Act, so far as they relate to the management of the said———— ————Farm, or impose any duty or obligation on the said———— Farmer, in as full and ample a manner as if the said provisions, conditions, and stipulations had been incorporated in this Contract: And they further covenant and agree, that if the said rent or any part thereof be unpaid for the space of————days after any of the days on which the same ought to have been paid, or in case of the breach of any of the provisions, conditions, and stipulations of the said Act so far as they relate to the said————

———Farm or the said———————————————Farmer, then and in either of such cases, it shall be lawful for the local Government to determine and put an end to the said rights and privileges, and dispose of the same to other persons, and in the event of any loss arising therefrom, they further covenant and agree to make good the said loss to the local Government: And they further covenant and agree that the said———————Farmer will make over to such person as may be invested with the rights and privileges of the———————Farm at——— ———————for the term next after the term herein provided for, all the stock of exciseable articles, and the machinery and vessels required for preparing such exciseable articles in the possession of the said———————Farmer at the end of the term herein provided for, at the marketable value of the said articles, machinery and vessels, and in the event of any difference arising as to the nature and quantity of articles, machinery and vessels so to be made over and the prices thereof, such difference shall be determined by three arbitrators, one to be appointed by the said———————Farmer, one by the person in whom the said rights and privileges may be vested or intended to be vested for the next succeeding term, and one by the local Government, and the award of such arbitrators or a majority of them shall be final, and the said arbitration or other settlement shall be held at such time before the end of the said term as to the local Government may seem reasonable. It is further covenanted and agreed that all deposits as well as all securities given by them shall be held by the local Government till all questions between the said———. ———Farmer and his sureties———————and——— ———and the local Government shall be finally disposed of, including matters relating to the transfer of the aforesaid exciseable articles, machinery and vessels, to the incoming———————Farmer, and it shall be lawful for the local Government on breach of any of the covenants in this Contract, such breach and the amount of penalty therefor to be held and proved by indorsement on the back of this Contract by the local Government, stating the breach and the amount of penalty therefor, to sell and dispose of all or any of the deposits or securities made and given under this Contract, without notice to the said———————Farmer, or his sureties———and———, and to nominate an Officer of the local Government to execute all conveyances necessary for the transfer of any such secureties, and out of the proceeds of such sale and disposition to satisfy and discharge any claims under this Contract against the said——— Farmer, and his sureties———and——— ———, when the local Government, after satisfying all such claims, shall return to the———Farmer the said deposits or so much thereof as shall remain, and shall surrender all securities held, or the remainder of such securities or of proceeds of sale of such securities, and this Contract shall be at an end: And it is further covenanted and ageeed, that the rights and privileges hereby vested in the———Farmer, shall not be assigned to any other person without the consent of the local Government, and that such assignment, if so allowed, shall not be deemed to relieve the said——— ———Farmer and his sureties———and ———from any liability under this Contract, and the said ———Farmer and his sureties,——— ———and———do hereby bind themselves and any one or two of them, their and any one or two of their executors, administrators, and assigns, in the sum of Dollars——— ———for the due fulfilment by the said———Farmer of this Contract.

Signed, Sealed, and *Delivered* at———
this———day of———18——by
———for the local Government,
and by———Farmer and———
sureties———
In the presence of———

STRAITS' EXCISE REVENUE.

Form of Mortgage.

I———
do hereby assign to the local Government as security for the due fulfilment of the terms of the Contract for the———Farm at———

for the term commencing the 1st day of————————18——and ending the 30th day of————————18——under the Straits' Excise Act of 1866, all my right, title and interest in the land situate in the district of————————in ————————, and described in Government grant or lease No.———— dated the————————day of————————18——and estimated to contain———and do hereby make over to the local Government the title deeds of the said land. In the event of any breach of the covenants in the said Contract by the————————Farmer, no proof of which breach or of the amount of penalties, forfeitures, damages, and losses arising therefrom shall be required further than the indorsement of the same on the back of the said Contract by the Chief Civil Authority in the said Settlement, I do hereby for myself, my executors, administrators, and assigns authorize the local Government to sell or otherwise dispose of the land hereby mortgaged, and out of the proceeds thereof to defray any penalties, forfeitures, damages, and losses, or other liability to which by the said indorsement the said————————Farmer shall have been declared liable, and the balance, if any, to be paid to me, my executors, administrators, or assigns. And the local Government is hereby authorized to appoint an Officer of Government to execute for me, my executors, administrators, and assigns all conveyances and instruments necessary for the sale or transfer of the said lands.

In Witness whereof, I have hereunto set my hand and seal this———— day of———————in the year 18——.

Signed, Sealed, and *Delivered,* }
In the presence of }

B.

EXCISE IMPORTS.

Bill of Specifications under Sections 6—11—15.

To the Registrar of Imports and Exports at————————

Sir,

Please to issue a permit to land from the ship———————— (chests of Opium *or*————————gallons of Spirituous Liquors—*name of Liquor*— contained in casks—*number of bottles—number and description of case or package*— ————————Chandoo Opium Dross package) within the hours from———— till————————on————————the———day of————————18——to be stored in the (godown, shop *or* house) of————————No.————in ———— Street at————————*or* the Office of Registrar of Imports and Exports.

Yours, &c.,————————

Date *Importer.*

C.

EXCISE IMPORTS PERMIT.

Under Sections 6—11—15.

A copy of this permit has been served on me.

(*Opium*) Farmer.
Singapore,——18——.

————————————————(is) authorized within the hours from————————till————————on ————————the————————day of————————18—— to land from the Ship————————(chests of Opium *or*————gallons of Spirituous Liquors—*name of Liquor*— contained in casks—*number of bottles and description of case or package*————————Chandoo————Opium Dross package) and (is) required to store the same in the (godown, shop *or* house) of No————in————————Street at———————— *or* the Office of Registrar of Imports and Exports at————

Date

Registrar o Imports & Exports.

D.

EXCISE REVENUE—OPIUM.

Notice to remove under Section 6.

To the Registrar of Imports and Exports at————————

Sir,

Please to issue a permit for the removal of————————chests of Opium (*marks and numbers*) imported from————————by———————— and stored under permit dated the————day of———————18—in the godown, &c., of————————situate at————in————————and afterwards removed to the godown, &c., of————and thence to the godown, &c., of————————(*as often as may be necessary to set out the several removals*)————————from the————godown, &c., of————at————to the godown, &c, of————————situate at————————in————————

Yours, &c.,

————————

Date————————

E

EXCISE EXPORTS.

Bill of Particulars under Sections 6—11—12—18.

To the Registrar of Imports and Exports at————————

Sir,

Please to issue a permit to export by ship————————(chests of Opium *or*————————gallons of Spiritious Liquors—*name of Liquor*—contained in casks—*number of bottles—number and description of case or package* Opium, Chandoo————Opium Dross), within the hours from————till————on the————————day of————————18——to *(destination)*————the said having been purchased by me from————in whose (godown, shop *or* house) it is now stored (*or* the same being now stored in my godown, shop *or* house) at———— the same being now stored in your office, and sold by me to————who is desirous of exporting.

Yours, &c.,

————————

Exporter.

Date————————

F.

EXCISE EXPORTS PERMIT

Under Sections 6—11—12—18.

A copy of this permit has been served on me.

Farmer.

Date————

————————(is) authorized to export by ship————to————(chests of Opium *or*————gallons of Spirituous Liquors—*name of Liquor*—contained in casks—*number of bottles—number and description of case or package*————Chandoo, ————Opium Dross) within the hours from————till————on ————the day of————18————, the said (————) having been purchased by the exporter from————the same being now stored in the (godown, shop *or* house of————situated at————*or* the same being now stored in my office) and sold to————who is required to export in terms of this permit.

————————

Date————————

Registrar of Imports and Exports.

G.

FORM OF SEARCH WARRANT.

Under Sections 8—23—30.

To the (Opium) Farmer or any Revenue Officer duly appointed under the Straits' Excise Act of 1866, *or any Police Officer.*

To Wit. { Whereas it appears to me, A B, one of Her Majesty's Justices of the Peace for the said Station, by the information on oath of———— ————that he hath good reason to believe and doth believe that (Opium *or* Spirituous Liquors) have been removed contrary to the provisions of the Straits' Excise Act of 1866 from the (godown, store

or house) of——situated in————————(*or* that Toddy *or* Bhang is now being grown and prepared contrary to the provisions of the said Act, in the land of————situated at————).

These are, therefore, to authorize and require you to enter in the day-time with a Police Officer of this Station, of the rank of Inspector at least, the said————————and therein take an account in writing of all (Opium *or* Spirituous Liquors) found in the said (godown, store *or* house, *or* of all trees used for producing Toddy, and measure the quantity of land used for the growth of Bhang), and thereafter bring before me or some other of Her Majesty's Justices of the Peace at the said Station, at the Police Court at————————the said account in writing within————days from the date hereof, and herein fail not.

Given under my hand and seal, at————this——day of————18 .

(Signed) ————

Justice of the Peace.

A fee of Dollars (100) has been paid for this license.

(Signed) ————

Commissioner of Police.

H.

EXCISE REVENUE LICENSE.

Under Section 33.

(1st Class.)

————situated in————at————duly licensed under Act——of——is hereby authorized, under the provisions of the Straits' Excise Act of 1866, to sell Spirituous Liquors in the said (Hotel), so that the same be used and consumed on the premises.

Keeper of Hotel,

Date——

————

Commissioner of Police.

I.

EXCISE SPIRITUOUS LIQUORS.

Declaration by Importer under Section 15.

To the Spirit Farmer at————.

Take Notice, that of the quantity of————landed by me on the————at————from the Ship————and now stored in————I hereby declare————gallons————bottles————to be intended for use where stored, and tender to you the sum of————dollars, being for the duty payable on the same under the Straits' Excise Act of 1846.

Date——

————

Importer.

K.

EXCISE SPIRITS.

Notice to remove under Section 17.

To the Spirit Farmer at————.

Take Notice, that I desire to remove, under Section 17 of the Straits' Excise Act of 1866——gallons——bottles of————contained in——imported by————on the——day of————18——ex-ship————and now stored in————at————and I hereby tender to you payment of————being the amount of duty chargeable on the same, and require from you a permit for the removal of the same from (————) to the godown, shop *or* house of————situated at————(*or if duty already paid*) the duty on the said——having been alreadyp aid by the Importer (*giving the name.*)

Yours, &c.,

————

Date————

Importer.

L.

EXCISE SPIRITS.

Permit to remove under Section 17.

——————— ——(is) authorized to remove under Section 17 of the Straits' Excise Act of 1866, from (——— ———) to (———) ——— gallons———bottles of———————contained in (*package*) imported by————————on the———day of————————————18—— ex ship————————and now stored in———————at——— ——and I acknowledge to have received from————————the sum of ——— ——dollars, being the amount of duty chargeable on the same.

Date———

———————

Spirit Farmer.

M.

EXCISE SPIRITS.

Notice to remove under Section 19.

To the Spirit Farmer at———————

Sir,

Please to issue your permit for the removal under Section 20 of the Straits' Excise Act of 1866, of———gallons, &c., cases containing———bottles, &c., ——— ——of (*name of Spirituous Liquors*)————————imported and stored by————————in the godown of————————at——— and thence removed duty paid under your permit, dated the———day of——— 18——to the godowns, &c., of————————at——— (*state any further removals and dates of Farmer's permits*)——————— where the said————————now lies, to the godown, &c.———of ————————at———

Yours, &c.,

Date———

———————

N.

EXCISE SPIRITS.

Permit to remove under Section 19.

———————is hereby authorized to remove (*state as in application*) from the godown, &c., of———————at————————to the godown, &c., of————————at————————Duty on the said Spirituous Liquors having paid by————————

———————

Date———

Spirit Farmer.

O.

EXCISE SPIRITS.

Order to remove under Section 21.

To Wit. { Whereas application has been made to me,——————— one of Her Majesty's Justices of the Peace for the said Station, for an order to remove (*here state full particulars required by Section* 20)———by———(*name of applicant*)———and whereas security to my satisfaction has been given by the said (*applicant*) for the amount of duty chargeable on the quantity of Spirituous Liquors intended to be removed. These are, therefore, to authorize the removal of (*here state particulars*) now stored in the godown of ———at———to the godown of———at———there to be kept till further authorized to be removed under the provisions of the Straits' Excise Act of 1866.

Given under my hand and seal, at———this——day of——18—.

———————

Justice of the Peace.

P.

EXCISE SPIRITUOUS LIQUORS.

Receipt by Spirit Farmer under Section 22.

I hereby acknowledge to have received from ——————the sum of Dollars—— ——being the sum payable as duty under the Straits' Excise Act of 1866, for ——gallons——————bottles————of——————declared to be for use where stored by the said——————in the godown of——————at————

Date————

Spirit Farmer.

Q.

EXCISE REVENUE LICENSE.

Under Section 34.

A fee of Dollars——has been received for this license.

Commr. of Pol.

——is hereby authorized to keep a licensed shop for the sale of (Chandoo, &c., Spirituous Liquors *or* Toddy and Bhang) at (No.————) Street——————Town (*or* in the village *or* district of) subject to the rules and regulations in that behalf, which rules and regulations have been read and explained to the said——— Given at——————this————day of————18—.

Commissioner of Police.

R.

EXCISE REVENUE.

Appointment of Revenue Officer under Section 46.

——————of——————in——————— is hereby, with the sanction of the local Government, appointed to be a Revenue Officer under the Straits' Excise Act of 1866, and is hereby vested with all the rights, powers, and immunities of such office under the provisions of the said Act.

Date————

Commissioner of Police.

S.

FORM OF SEARCH WARRANT.

Under Section 50.

To the Peace Officer or Officers within this Settlement, or to the Revenue Officer or Officers appointed according to the provisions of the Straits' Excise Act of 1866.

To Wit. { Whereas it appears to me, *A B*, one of Her Majesty's Justices of the Peace for the said *Station*, by the information on oath of *C D*, that he has good cause to believe and doth believe that articles subject to forfeiture under the provisions of the Straits' Excise Act of 1866, are concealed or deposited in the *dwelling-house, shop, or other building or place of E F, or on board the ship*——————now lying or being within the limits of the jurisdiction of the Court of Judicature of the said Settlement. These are, therefore, in the name of our said Lady the Queen, to authorize and require you, with necessary and proper assistants, to enter in the day-time into the said *dwelling-house, shop, or other builing or place of the said E F, or on board the ship*——— ———now lying or being within the limits of the jurisdiction of the Court of Judicature in the said Settlement, and there diligently to search for the said articles, and also to authorize and require you, if a Peace Officer, and, if not, in the presence of a Peace Officer, to enter in the night-time (that is to say, at any time between the hours of six o'clock in the evening and six in the following morning) in the said *dwelling-house, shop, or other building or place of the said E F, or on board the ship*——————lying or being within the limits of the jurisdiction of the Court of Judicature in the said Settle-

ment, and there diligently search for the said articles, and if the same shall be found upon such search, that you seize and take possession of the said articles so found, and also the body or bodies of any person or persons being in the said *dwelling-house, shop, or other building or place, or on board the ship*————————lying or being within the limits of the jurisdiction of the Court of Judicature in the said Settlement, in whose possession, custody or control any such articles may be found, or whom you may have good and sufficient reason to suspect had concealed or deposited therein any such article, and to bring the said articles and person or persons before me the said *A B*, or some other of the Justices of our said Lady the Queen, assigned to keep the peace in the Settlement aforesaid, to be disposed of and dealt with according to law.

Given under my hand and seal at————————in the year————

(Signed) *A B*,
Justice of the Peace.

T.

EXCISE REVENUE.

Recognizance under Section 51.

To Wit. { Be it remembered that (*person charged*) and (*sureties*) appeared before the undersigned, one of Her Majesty's Justices of the Peace for this *Station*, and acknowledged themselves severally as well as jointly to be indebted to the Commissioner of Police at this *Station*, or his successor in office, in the sum of Dollars————————to be levied in a summary manner, by distress and sale of the goods and effects of the said————————severally as well as jointly under the provisions of Section 51 of the Straits' Excise Act of 1866.

The condition of the above recognizance is such, that if the above bounden————————shall be and appear at the Police Court at————on————next, the————day of————18——to be further dealt with according to law, and shall not depart therefrom without leave till lawfully discharged or convicted, then this cognizance to be void and of no effect, otherwise to stand in full force and virtue.

Taken and acknowledged before me,

Date————

Justice of the Peace.

V.

WARRANT OF COMMITMENT.

Under Section 51 *of the Straits' Excise Act of* 1866.

To Wit. { Whereas————————and————————have been brought before me————————one of Her Majesty's Justices of the Peace for the Station————by————————Revenue Officer appointed *or* by————————(*a Police Officer*) charged with (*here state charge*).

And whereas it appears to me that there is good reason to believe that an offence has been committed, for which the said————ought to answer at the Police Court: and whereas the said————has not found bail to my satisfaction to appear to answer the said charge:

These are, therefore, to authorize and require (*the said Revenue Officer*) to take the said (*prisoners*)————to the principal Police Lock-up at————there to be detained till (he) shall be brought before the Justice of the Peace, at the Police Court at————to answer to the charge there to be preferred against (him) unless (he) shall before that time give bail to the satisfaction of any of Her Majesty's Justices of the Peace at this Station, for (his) appearance at the Police Court as aforesaid.

Witness my hand and seal, this————day of————18—

Justice of the Peace.

W.

FORM OF DISTRESS WARRANT.

Under Section 54.

To the Peace Officers, or to any Peace Officer of the said Station.

To Wit. { Whereas *A B* of ————————has been on the day of———— ————18————duly convicted before us (*C D* and *E F*, two of Her Majesty's Justice of the Peace, *or G H*, Magistrate of Police) for the said *Station*, of the offence of————————against the form of the Straits' Excise Act of 1866, in that case made and provided, and was thereupon adjudged by us that he the said *A B* had forfeited the sum of————————dollars for the offence aforesaid: and whereas the said *A B* being required to pay the said sum hath not paid the same, but therein has made default: These are to command you to distrain the goods and chattels of the said *A B* which may be found within this *Station*, to the amount of the said sum and such further sum as may be sufficient to defray the charges of making such distress, and if within five days next after such distress the said sum, together with the reasonable charges for taking and keeping the said distress, shall not be paid, to sell the said goods and chattels, and having paid out of the money arising by such sale the said sum of————————dollars to us, to be applied according to the provisions of the said Act, and having deducted the necessary charges for taking, keeping, and selling the said distress, to return the overplus, if any, on demand to the person whom you shall find in possession of the said goods and chattels; and if no such distress can be made, that then you certify the same unto us, to the end that such further proceedings may be had thereon as to the law doth appertain.

Given under our hands and seals, this————day of————18—.

C D,
E F,
Justices of the Peace,
or
G H,
Magistrate of Police.

X.

FORM OF COMMITMENT WHEN IT APPEARS THAT THE OFFENDER HAS NO GOODS WHEREON TO LEVY A DISTRESS.

Under Section 54.

To the Peace Officers, or any Peace Officer, and the Keeper of the Prison of the said Station or Keeper of the House of Correction at the said Station.

To Wit. { Whereas *A B* of————————was on the————day of———— ————18————, duly convicted before us, *C D* and *E F*, two of Her Majesty's Justices of the Peace, *or G H*, Magistrate of Police for the said *Station*, of the offence of————————against the form of the Straits' Excise Act of 1866, in that case made and provided, and was thereupon adjudged by us, that he the said *A B* had forfeited the sum of————dollars for the offence aforesaid, to be commuted in case of non-payment of the said sum to imprisonment for———— ————*with hard labour:* and whereas the said *A B* hath not paid the said sum, but therein hath made default, and it appears to us that the said *A B* has no goods or chattels whereon to levy a distress: These are, therefore, to command you, the said Peace Officers or Peace Officer, to take the said *A B* and him safely to convey to the prison of the said *Station*, and there to deliver him to the said Keeper thereof together with this precept: And we do hereby command you, the

said Keeper of the said prison, to receive the said *A B* into the said prison, there to imprison him *with hard labour* for the space of——

Given under our hands and seals, at——————this——— day of————18—.

C D,
E F,
Justices of the Peace,
or
G H,
Magistrate of Police.

BENGAL SECRETARIAT LIBRARY.

Y.

FORM OF COMMITMENT.

Under Section 54.

To the Peace Officers, or any Peace Officer, and the Keeper of the Prison of the said Station, or to the Keeper of the House of Correction at the said Station.

To Wit. { Whereas *A B* of——————was on the———day of ————18——, duly convicted before us (*C D* and *E F*, two of the Justices of the Peace, or *G H*, Magistrate of Police) for the said *Station*, of the offence of——————against the form of the Straits' Excise Act of 1866, in that case made and provided, and was thereupon adjudged by us that he the said *A B* had forfeited the sum of——dollars for the offence aforesaid, to be commuted in case of non-payment of the said sum to imprisonment for———— *with hard labour:* And whereas we have issued a distress warrant to levy the amount of the said sum by seizure and sale of the goods and chattels of the said *A B* within our jurisdiction, and no goods and chattels of the said *A B* have been found within such jurisdiction, and the said *A B* hath not yet paid the said sum, but therein hath made default: These are, therefore, to command you, the said Peace Officers or Peace Officer, to take the said *A B* and him safely to convey to the prison of the said *Station*, and there to deliver him to the said Keeper thereof together with this precept: And we do hereby command you, the said Keeper of the said prison, to receive the said *A B* into the said prison, there to imprison him *with hard labour* for the space of——

Given under our hands and seals, at————this———— day of————18——.

C D,
E F,
Justices of the Peace,
or
G H,
Magistrate of Police.

Z.

FORM OF CONVICTION.

Under Section 55.

To Wit. { Be it remembered that, on the———day of————in the year 18——, *A B* is found guilty before us, *C D* and *E F*, two of the Justices of the Peace, or *G H*, Magistrate of Police for the said *Station*, of the offence of——————against the form of the Straits' Excise Act of 1866, in that case made and provided: And we do hereby convict him of the offence aforesaid, and do adjudge that he the said *A B* hath forfeited the sum of——— ————dollars for the offence aforesaid, to be commuted in case of non-payment of the said sum to imprisonment for———— *with hard labour.*

Given under our hands and seals, at————the day and year first mentioned.

C D,
E F,
Justices of the Peace,
or
G H,
Magistrate of Police.

AA.

EXCISE REVENUE.

Notice of Appeal under Section 56.

IN THE POLICE COURT AT————

In the case of
The (*Opium*) Farmer,
Complainant,
versus
M N
Defendant,

To *A B*, Esq., and *C D*, Esq., Her Majesty's Justices of the Peace at————————*or E F*, Esq., Magistrate of Police at————

Take notice, that I intend to appeal to the Court of Judicature against your adjudication in the above-named case on the following grounds:—that is to say *(here state grounds of appeal in full.)*

Yours, &c.,

Date———. *(Complainant or Defendant.)*

BB.

EXCISE REVENUE APPEAL.

Under Section 56.

IN THE COURT OF JUDICATURE OF PRINCE OF WALES' ISLAND, SINGAPORE, AND MALACCA.

Division of————

In the matter of————
The (*Opium*) Farmer of————
versus

Charge in full (*as in Charge or Summons.*) Mr.————appeared as law agent for the Complainant, and Mr.————for the Defendant (*as the case may be.*)

The case was called on in the Police Court in————on the———day of————18—before (————Esq., a Magistrate of Police), *or*————two of Her Majesty's Justices of the Peace for the Station, when the Defendant pleaded not guilty, and the following evidence was taken on oath for the prosecution:—(*here copy evidence for prosecution.*)

Defendant contended (*here state shortly the points of defence made by or for the Defendant.*)

The following evidence was taken for the Defendant:—(*here copy evidence for defence.*)

For the Complainant it was contended that (*here state shortly the argument in support of the Complainant's case.*)

The following adjudication was then made by the undersigned:—(*here state decision.*)

On the———day of——18—(the Complainant *or* Defendant, *as the case may be*), gave notice to the undersigned of (his) intention to appeal and (has) lodged with (us) the some of dollars————for the copying of this transcript, and (has) given security to (my) satisfaction in the sum of dollars————to answer the costs of this appeal, and in the further sum of dollars————(*the amount of penalty*) for the due enforcement of the penalty awarded by (me) or to be awarded by the Court of Judicature, if necessary.

This transcript is therefore, in terms of Section 56 of the Straits' Excise Act of 1866, transmitted to the Registrar of Her Majesty's Court of Judicature.

Given under (my) hand and seal, at————this————day of————18—

Magistrate of Police,

or

Two Justices of the Peace.

CC.

EXCISE REVENUE.

Order to produce person confined under Section 56.

To the Sheriff of Prince of Wales' Island, Singapore and Malaca, or to the Keeper of the House of Correction at————

These are to require you to bring before us or such other Justices of the Peace or Magistrate of Police as may be sitting at the Police Court, on————next the————day of————18—the body of (*Prisoner's name*) now in your custody, under warrant of commitment dated the————day of————18—for offence against the provisions of the Straits' Excise Act of 1866.

Given under our hands and seals, at————this————day of————18—.

Justice of the Peace, &c.

DD.

EXCISE REVENUE.

Recognizance of Bail under Section 56.

(*Defendant's name and Securities' names*) appear before us, and acknowledge themselves severally as well as jointly to be indebted to the Commissioner of Police at this Station, or his successor in office, in the sum of Dollars———— for costs in an appeal by him forwarded under the Straits' Excise Act of 1866, and a further sum of Dollars————to answer a penalty adjudicated against the first above-named————to be levied in a summary manner, by distress and sale of the goods and effects of the said————severally as well as jointly under the provisions of Section 56 of the Straits' Excise Act of 1866.

The condition of this recognizance is such, that if the above bounden (*Defendant*) shall, if ordered thereto on appeal by the Court of Judicature, pay the amount of taxed costs of the said appeal (and shall further appear at this Police Court within two days after the hearing and decision of the said Court of Judicature on the said appeal) and surrender himself to undergo any sentence or pay any penalty which may be ordered by the said Court of Judicature on appeal, then this recognizance to be void and of no effect, otherwise to stand in full force and effect.

Taken and acknowledged at the Police Court at————this————day of————18—.

Justice of the Peace, &c.

ACT No. I. OF 1867.

1. Interpretation Clause. "Lieutenant-Governor." "Master." "Magistrate."
2. Toll not exceeding 12 annas per 100 maunds, chargeable on vessels ascending or descending the Ganges.
3. Rules for measurement of burden.
4. Application of funds raised under this Act.
5. Appointment of Collector of Tolls.
6. List of Tolls.
7. Tolls to be paid to proper Officer, who shall give a voucher for the same.
8. Payment of Tolls how to be enforced.
9. Power to sue for recovery of Tolls.
10. Ascertainment by Toll Collector of burden of steamer, flat or boat.
11. Evading payment of Tolls.
12. Magistrate to decide disputes respecting Tolls.
13. Lieutenant-Governor may alter Tolls.
14. Power to prohibit the constructions of bándhéls.
15. Penalty for causing obstruction to navigation.
16. Rules relating to navigation.
17. Recovery of fines.

An Act to authorize the levy of Tolls for the improvement of the navigation of the Ganges.

Preamble.

Whereas it is expedient to authorize the levy of tolls on certain steamers, flats and boats plying on the River Ganges, to be applied for the improvement of the navigation of the said river between Allahabad and Dinapore; It is hereby enacted as follows:

Interpretation Clause.

I. In construing this Act—

"Lieutenant-Governor."

"Lieutenant Governor" shall mean the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William;

"Master."

"Master" shall include every person (except a pilot) having command or charge of any steamer, flat or boat; and

"Magistrate."

"Magistrate" shall include any person exercising any of the powers of a Magistrate.

Toll not exceeding 12 annas per 100 maunds, chargeable on vessels ascending or descending the Ganges.

II. A toll not exceeding twelve annas per 100 maunds shall be payable, at such place or at one of such places subject to the Government of the Lieutenant-Governor as he shall from time to time direct, in respect of every steamer, flat and boat of the burden of 200 maunds and upwards, which shall pass up or down the Ganges by such place or any of such places: Provided that toll shall be levied in the case of steamers only on sixty-five per cent. of the burden, and in the case of flats only on ninety per cent. of the burden.

Rules for measurement of burden.

III. The burden of steamers and flats liable to pay tolls under this Act shall be determined according to the method which may from time to time be practised by the Master Attendant at Calcutta in order to ascertain the amount of port dues which such steamers and flats would be liable to pay on arriving within the limits of the port of Calcutta. The following method shall be used for determining in maunds, according to actual floatage or displacement, the burden of boats liable to pay tolls under this Act; (that is to say):—half the length in feet at the water-level of the boat, shall be multiplied by the greatest width in feet at the water-level, and the product shall further be multiplied by the draft of water in feet, and the number so found shall be taken to be the burden in maunds. Thereupon the toll shall be calculated according to the 700 of maunds, fractions of a hundred being neglected.

Application of funds raised under this Act.

IV. The funds raised by the tolls payable under this Act shall be applicable, at the descretion of the Lieutenant-Governor, to defray the expenses of improving and facilitating the navigation of the Ganges between Allahabad and Dinapore.

Appointment of Collector of tolls.

V. The Lieutenant-Governor may appoint any person he may think fit to collect the tolls payable under this Act at any place or places under his government, and may from time to time remove any such person and appoint another person in his stead.

List of tolls.

VI. Sections 2 and 3 of this Act, and a list of the rates of tolls and of the place or places of collecting the toll leviable under this Act, shall be at all times exhibited at such place or places in the English and Urdú languages, and shall also be published thrice in the local Gazette.

Tolls to be paid to proper officer who shall give a voucher for the same.

VII. Every person so appointed shall collect the tolls leviable under this Act by himself, or by any officer in his establishment(if any) whom he shall appoint in this behalf. The officer to whom any such toll shall be paid shall grant to the person paying the same a voucher in writing under his hand, describing the name of his office and the place at which such payment shall be made, the name (if any), burden and other proper description of the steamer, flat or boat, and the voyage in respect of which such toll shall be paid.

Payment of tolls how to be enforced.

VIII. If any toll leviable under this Act in respect of any steamer, flat or boat shall not be paid on demand to the person authorized to collect the same, it shall be lawful for such person to seize such steamer, flat or boat, and any furniture thereof, and to detain the same; and such person shall, within twenty-four hours of such seizure and detention, report the same to the nearest Collector or Deputy Collector of the District in which the seizure has been made, or other public officer duly authorized by the Lieutenant-Governor in this behalf. On receipt of such report, the Collector, Deputy Collector, or other officer as aforesaid, shall publish a notice appointing a day for the sale of the said steamer, flat or boat and any furniture thereof. The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale. If the toll and also any expenses occasioned by non-payment be not paid, or sufficient cause for non-payment be not shown, at or before the time of sale, to the Collector, Deputy Collector, or other officer as aforesaid, such officer shall sell the steamer, flat or boat and furniture seized, or so much thereof as may be necessary to pay the toll, and also any expenses occasioned by non-payment. So much of the property seized as may not have been sold, and so much of the sale proceeds as may be in exces of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non-payment, shall be returned to the master of the steamer, flat, or boat.

Power to sue for recovery of tolls.

IX. Notwithstanding anything in this Act contained, the person authorized to collect the tolls payable under this Act at any such place as last aforesaid, may, in his own name, sue for and recover, on behalf of the Government of India, the amount of any tolls payable to him under this Act, by suit in any of the Civil Courts against the owner or master of any steamer, flat or boat liable thereto.

Ascertainment by Toll Collector of burden of steamer, flat or boat.

X. Upon the refusal or neglect of any owner or masters of any steamer, flat or boat liable to pay toll under this Act, to satisfy the person authorized to collect such toll as to what is the true burden, as ascertained under Section 3 of this Act, of the steamer, flat or boat, it shall be lawful for such person to cause such steamer, flat or boat to be measured at the expense of the master thereof, and such expense shall be recoverable in the same manner as tolls payable under this Act; or it shall be lawful for such person to deliver to the master or owner of such steamer, flat or boat, or to leave for him on board such steamer, flat or boat a notice in writing specifying what, in his judgment, is the burden of the steamer, flat or boat, and the burden specified in such notice shall be deemed to be the real burden of the steamer,flat or boat, and be treated as such for all the purposes of this

Act, until the owner or master of the steamer, flat or boat shall give sufficient proof of the true burden thereof, as ascertained under Section 3 of this Act.

Evading payment of tolls.

XI. The master of any steamer, flat or boat which shall depart from, or arrive at, any place as last aforesaid, upon or in the course of, or at the termination of any voyage, shall, upon demand by any person authorized to collect or receive the tolls under this Act, specify whence he is come and whither he is bound. If any master of any such steamer, flat or boat shall refuse or neglect so to do, or shall make a false statement as to the place from which he is come or to which he is bound, or shall endeavour to evade the payment of any toll payable under this Act, he shall be punishable by a Magistrate by a fine not exceeding 200 Rupees.

Magistrate to decide disputes respecting tolls.

XII. If any dispute shall arise respecting the liability of any steamer, flat or boat to the payment of toll under this Act, or in respect of the burden of any steamer, flat or boat, or the amount of toll payable, or the amount of any charges on account of any sale under this Act, such dispute shall be heard and determined by a Magistrate, and the decision of such Magistrate shall be final.

Lieutenant-Governor may alter tolls.

XIII. The Lieutenant-Governor may, from time to time as he may think fit, reduce all or any of the tolls payable under this Act, in respect of all vessels or of any particular class or classes of vessels, and again raise such tolls to any amount not exceeding the amount hereinbefore specified. He may also prescribe a mode or modes of measurement for burden differing from those prescribed in Section 3 of this Act: Provided that the tolls payable under such new mode or modes of measurement shall not exceed the amount specified as aforesaid.

Power to prohibit construction of bándhels.

XIV. Whenever, in the opinion of such officer as the Lieutenant-Governor shall appoint in this behalf, the construction of any bándhél or other contrivance for fishing or for any other purpose, in any part of the Ganges between Allahabad and Dinapore, is likely to cause obstruction to the free and safe navigation of such part, he may by notice in writing, to be served on the owner or person in charge of such bándhél or other contrivance, or, if such owner or other person cannot be found, to be affixed at some conspicuous place in the nearest village, prohibit the construction of such bándhél or other contrivance.

Penalty for causing obstruction to navigation.

XV. Any person who shall wilfully disobey any prohibition under the last preceding Section, or shall wilfully cause or aid in causing any obstruction to the navigation of the Ganges between Allahabad and Dinapore, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished, on conviction before a Magistrate, with simple imprisonment which may extend to one month, or with fine which may extend to 50 Rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction or in repairing such damage.

Rules relating to navigation.

XVI. It shall be lawful for the Lieutenant-Governor from time to time to make rules not repugnant to any law in force, and to repeal, alter, and amend such rules, for the

management of the navigation of any part of the Ganges between Allahabad and Dinapore, and for regulating the conduct of persons employed for any of the purposes of this Act; and the Lieutenant-Governor may affix fines as penalties for the infringement of such rules, not exceeding 50 Rupees for any one infringement, or five Rupees a day for any continuing infringement.

Such rules may contain directions for any of the following amongst other matters :—

(*a.*) For fixing the number and the width of steamers, flats and boats to be allowed to pass into, or out of, or through, any part of the Ganges between Allahabad and Dinapore at one time or abreast;

(*b.*) For determining the length of time during which steamers, flats or boats may remain stationary on such part, and the amount of demurrage to be paid by steamers, flats or boats remaining stationary beyond such time;

(*c.*) For regulating the mode in which and the place or places at which tolls are to be levied under this Act;

(*d.*) For the removal of sunken vessels and obstructions;

(*e.*) And for the storing and disposal of the cargo of steamers, flats and boats seized under this Act.

Recovery of fines.

XVII. All fines imposed under this Act may be recovered in the manner prescribed by the Code of Criminal Procedure, and may be disposed of as the Lieutenant-Governor shall from time to time direct.

ACT No. II. OF 1867.

1. Local Government may order removal of prisoners sentenced by High Court from one Jail to another in the territories subject to the same Government
2. Lunatic prisoners sentenced by High Court may be removed to Asylum by order of local Government.
3. Governor-General in Council may order removal of prisoners sentenced by any Court from one Jail to another in British India.

An Act to make further provision for the removal of prisoners.

Preamble.

Whereas it is expedient to authorize the local Government to remove any prisoner sentenced by a Court established by Royal Charter from the Jail in which such prisoner is confined to any other Jail, or in the case of a prisoner of unsound mind, to a Lunatic Asylum, within the territories subject to the same local Government: And whereas it is also expedient to authorize the Governor-General of India in Council to remove any prisoner sentenced by any Court from the Jail in which such prisoner is confined to any other Jail within British India; It is hereby enacted as follows:

Local Government may order removal of prisoners sentenced by High Court from one Jail to another in the territories subject to the same Government.

I. When any person shall be, or shall have been, sentenced to imprisonment by a Court established by Royal Charter, it shall be lawful for the local Government to order the removal of such person, during the period prescribed for his or her imprisonment, from the Jail or place in which he or she is confined to any other Jail or place of imprisonment within the territories subject to the same local Government.

Lunatic prisoners sentenced by High Court may be removed to Asylum by order of local Government.

II. Whenever it shall appear to the local Government that any person imprisoned by the sentence of a Court established by Royal Charter, is of unsound mind, such Government, by a warrant which shall set forth the grounds of belief that such prisoner is of unsound mind, may order his or her removal to a Lunatic Asylum, or other fit place of safe custody, within the territories subject to the same Government, there to be kept and treated as the local Government shall direct during the remainder of the terms of imprisonment ordered by the sentence; or if it shall be certified by a medical officer that it is necessary for the safety of the prisoner or others that he or she should be detained under medical care or treatment, then until he or she shall be discharged according to law; and when it shall appear to the same Government that such prisoner has become of sound mind, the local Government, by a warrant directed to the person having charge of the prisoner, shall remand him or her to the prison from which he or she was removed, if then still liable to be kept in custody, or if not, shall order him or her to be discharged. The provisions of Section 9 of Act XXXVI. of 1858 *(relating to Lunatic Asylums)* shall apply to every person confined in a Lunatic Asylum under this Section after the expiration of the term of imprisonment to which he or she shall have been sentenced; and the time during which he or she shall have been so confined shall be reckoned as part of such term.

Governor-General in Council may order removal of prisoners sentenced by any Court from one Jail to another in British India.

III. When any person shall be, or shall have been, sentenced to imprisonment by any Court, it shall be lawful for the Governor-General of India in Council to order the removal of such person during the period prescribed for his or her imprisonment, from the Jail or place in which he or she is confined to any other Jail or place of imprisonment in the teritories which are or may become vested in Her Majesty or Her successors by the Statute 21 and 22 Vict., chap. 106 *(An Act for the better Government of India.)*

Act No. III. of 1867.*

1. Interpretation Clause. "Lieutenant-Governor." "Chief Commissioner." "Common gaming-house." Number. Gender.
2. Power to extend Act.
3. Penalty for owning or keeping, or having charge of, a gaming-house.
4. Penalty for being found in a gaming-house.
5. Power to enter and authorize Police to enter and search.
6. Finding cards, &c., in suspected houses, to be evidence that such houses are common gaming-houses.
7. Penalty on persons arrested for giving false names and addresses.
8. On conviction for keeping a gaming-house, instruments of gaming to be destroyed.
9. Proof of playing for stakes unnecessary.
10. Magistrate may require any person apprehended to be sworn and give evidence.
11. Witnesses indemnified.
12. Act not to apply to certain games.
13. Gaming and setting birds and animals to fight in public streets. Destruction of instrument of gaming found in the public streets.
14. Offences by whom triable.
15. Penalty for subsequent offence.
16. Portion of fine may be paid to informer.
17. Recovery and application of fines.
18. Offences under this Act to be offences within meaning of Penal Code.

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* In force in the cantonment and town of Bangalore by Order 240. See *Gazette of India*, 14th December, 1867, p. 1599.

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the North-Western Provinces of the Presidency of Fort William, and in the Punjab, Oudh, the Central Provinces, and British Burmah.

Preamble.

Whereas it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the Governments of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William, of the Lieutenant-Governor of the Punjab, and to the administrations of the Chief Commissioner of Oudh, of the Chief Commissioner of the Central Provinces, and of the Chief Commissioner of British Burmah; It is hereby enacted as follows:

Interpretation Clause.

"Lieutenant-Governor."

I. In this Act—"Lieutenant-Governor" means the Lieutenant-Governor of the said North-Western Provinces or the Punjab, as the case may be:

"Chief Commissioner."

"Chief Commissioner" means the Chief Commissioner of Oudh, the Central Provinces, or British Burmah, as the case may be:

"Common gaming-house."

"Common gaming-house" means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, whether by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever:

Number.

Words in the singular include the plural, and *vice versâ;* and

Gender.

Words denoting the masculine gender include females.

Power to extend Act.

II. Sections 13, 17, and 18 of this Act shall extend to the whole of the said territories; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend, by a notification to be published in three successive numbers of the official Gazette, all or any of the remaining Sections of this Act to any city, town, suburb, railway-station, house and place being not more than three miles distant from any part of such station-house within the territories subject to his Government or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb, or station-house, and from time to time to alter the limits so defined. From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories to which such extension shall have been made, as shall be inconsistent with, or repugnant to, any Section so extended, shall cease to have effect in such territories.

Penalty for owning or keeping, or having charge of, a gaming-house.

III. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps, or uses the same as a common gaming-house; and whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house; and whoever has the care or management of, or in any manner assists in conducting, the business of any

house, walled enclosure, room or place as aforesaid, opened, occupied, or kept for the purpose aforesaid; and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place, shall be liable to a fine not exceeding 200 Rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding three months.

Penalty for being found in a gaming-house.

IV. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding 100 Rupees, or to imprisonment of either description, as defined in the Indian Penal Code, for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize Police to enter and search.

V. If the Magistrate of a District, or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place, is used as a common gaming-house, he may either himself enter, or by his warrant authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place, and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not then actually gaming; and may seize or authorize such officer to seize all instruments of gaming, and all monies and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein; and may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody; and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, &c, in suspected houses, to be evidence that such houses are common gaming-houses.

VI. When any cards, dice, gaming-tables, cloths, board or other instruments of gaming are found in anyhouse, walled enclosure, room or place, entered or searched under the provisions of the last preceding Section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place, is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police Officer, or any of his assistants.

Penalty on persons arrested for giving

VII. If any person found in any common gaming-house entered by any Magistrate or Officer of Police under the provisions of this Act, upon being arrested by any such officer

false names and addresses.

or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may upon conviction before the same or any other Magistrate be adjudged to pay any penalty not exceeding 500 Rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed.

VIII. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all monies seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of playing for stakes unnecessary.

IX. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager, or stake.

Magistrate may require any person apprehended to be sworn and give evidence.

X. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorized as aforesaid. No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself. Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid shall be subject to be dealt with in all respects as any person committing the offence described in Section 178 or Section 179 (as the case may be) of the Indian Penal Code.

Witnesses indemnified.

XI. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall in the opinion of the Magistrate make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined,

shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Act not to apply to certain games.

XII. Nothing in the foregoing provisions of this Act contained, shall be held to apply to any game of mere skill wherever played.

Gaming and setting birds and animals to fight in public streets.

XIII. A Police Officer may apprehend without warrant any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, used in playing any game not being a game of mere skill, in any public street, place or thoroughfare situated within the limits aforesaid, or any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or any person there present aiding and abetting such public fighting of birds and animals. Such person when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding 50 Rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month; and such Police Officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may on conviction of the offender order such instruments to be forthwith destroyed.

Destruction of instruments of gaming found in public street.

Offences by whom triable.

XIV. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed. But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, as to the amount of fine or imprisonment he may inflict.

Penalty for subsequent offence.

XV. Whoever, having been convicted of an offence punishable under Section 3 or Section 4 of this Act, shall again be guilty of any offence punishable under either of such Sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description: Provided that he shall not be liable in any case to a fine exceeding 600 Rupees, or to imprisonment for a term exceeding one year.

Portion of fine may be paid to informer.

XVI. The Magistrate trying the case may direct any portion of any fine which shall be levied under Sections 3 and 4 of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer.

Recovery and application of fines.

XVII. All fines imposed under this Act may be recovered in the manner prescribed by Section 61 of the Code of Criminal Procedure, and such fines shall (subject to the provisions contained in the last preceding Section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall from time to time direct.

Offences under this Act to be offences within meaning of Penal Code.

XVIII. Anything made punishable by this Act shall be deemed to be an 'offence' within the meaning of the Indian Penal Code.

ACT No. IV. OF 1867.

1. 'Offence' in certain Sections of Penal Code to include anything punishable only by a special or local law.
2. Sections 222 and 223 of Penal Code to apply to commitments to custody.
3. Punishment for escape by person in custody for failing to furnish security.
4. Saving of provisions of special and local laws.

An Act to enlarge the meaning of the word 'offence' in certain Sections of the Indian Penal Code, and for other purposes.

Preamble.

Whereas it is expedient to enlarge the meaning of the word 'offence' in certain Sections of the Indian Penal Code so as to make it denote not only anything made punishable by the said Code, but also anything made punishable by any special or local law as therein defined; It is hereby enacted as follows:

'Offence' in certain Sections of Penal Code to include anything punishable only by a special or local law.

I. Sections 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389, and 445 of the Indian Penal Code shall be construed as if the word 'offence' denoted anything made punishable by the said Code, or by any special or local law as therein defined; and Sections 141, 176, 177, 201, 202, 212, 216, and 441 of the said Code shall be construed in the same way when the thing made punishable by the special or local law is punishable by such law with imprisonment for a term of six months or upwards, whether with or without fine.

Sections 222 and 223 of Penal Code to apply to commitments to custody.

II. Sections 222 and 223 of the said Code shall be construed as if after the word offence the following words were inserted: (that is to say), 'or lawfully committed to custody,' and Section 222 of the said Code shall also be construed as if the following words were added to the same Section: (that is to say), 'or if the person was lawfully committed to custody.'

Punishment for escape by person in custody for failing to furnish security.

III. Whoever escapes or attempts to escape from any custody in which he is lawfully detained for failing to furnish any security required under Chapter XIX. of the Code of Criminal Procedure, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to one year, or with fine, or with both.

Saving of provisions of special and local laws.

VI. Nothing contained in this Act shall be taken to affect any of the provisions of any special or local law.

ACT No. V. OF 1867.

1. Penal Code to extend to Straits' Settlement from such day as Governor shall appoint.
2. In Straits' Settlement, certain Sections to be construed as if 'offence' included anything made punishable by a special or local law.
3. Sections 222 and 223 of Penal Code to apply to commitments to custody.
4. This Act to be read with the Penal Code.

An Act to extend the Indian Penal Code to the Straits' Settlement.

Preamble.

Whereas it is expedient to extend, with certain modifications, the provisions of the Indian Penal Code to the Settlement of Prince of Wales' Island, Singapore, and Malacca; It is hereby enacted as follows:

Penal Code to extend to Straits' Settlement from such day as Governor shall appoint.

1. From and after such day as the Governor of the said Settlement shall appoint in this behalf, the provisions of the Indian Penal Code shall, with the modifications hereinafter mentioned, apply to and take effect throughout the said Settlement: and in construing the said Code, two rupees shall be deemed equivalent to one dollar.

In Straits' Settlement, certain Sections to be construed as if 'offence' included anything made punishable by a special or local law.

II. In applying the said provisions to the said Settlement, Sections 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389, and 445 of the said Code shall be construed as if the word 'offence' denoted anything made punishable by the same Code, or by any special or local law as therein defined; and Sections 141, 176, 177, 201, 202, 212, 216, and 441 of the said Code shall be construed in the same way when the thing made punishable by the special or local law is punishable by such law with imprisonment for six months or upwards, whether with or without fine.

Sections 222 and 223 of Penal Code to apply to commitments to custody.

III. Sections 222 and 223 of the said Code shall be construed as if after the word 'offence' the following words were inserted: (that is to say), 'or lawfully committed to custody,' and Section 222 of the said Code shall be construed as if the following words were added to the same Section: (that is to say), 'or if the person was lawfully committed to custody.'

This Act to be read with the Penal Code.

IV. This Act shall be read with, and taken as part of, the Indian Penal Code.

Act No. VI. of 1867.

An Act to enable the Lieutenant-Governor of the Punjab to alter the limits of existing districts in any part of the territories under his Government.

Preamble.

Whereas it is expedient to empower the Lieutenant-Governor of the Punjab to alter the limits of existing districts in the territories under his government; It is hereby enacted as follows:

Power to Lieutenant-Governor of the Punjab to alter districts.

I. It shall be lawful for the Lieutenant-Governor of the Punjab by a notification in the local Gazette, from time to time, to alter the limits of existing districts in any part of the territories under his government.

Saving of power of Governor-General under Act XXI. of 1836.

II. Nothing contained in this Act shall affect the power conferred on the Governor-General of India in Council by Act XXI. of 1836.

Act No. VII. of 1867.

An Act to reduce the pecuniary penalty for purchasing from Soldiers arms, ammunition, clothes, and other articles.

Preamble.

Whereas by the Act for punishing mutiny and desertion, and for the better payment of the Army and their quarters; it is enacted as follows:

Penalty on purchasing soldiers' necessaries, stores, &c

"Any person who shall knowingly detain, buy, exchange, or receive from any soldier or deserter or any other person acting for or on his behalf, on any pretence whatsoever, or who shall solicit or entice any soldier, or shall be employed by any soldier, knowing him to be such, to sell any arms, ammunition, medals for good conduct or for distinguishment or other service, clothes, or military furniture, or any provisions, or any sheets or other articles used in Barracks provided under Barrack Regulations, or regimental necessaries, or any articles of forage provided for any horses belonging to Her Majesty's service, or who shall have in his or her possession or keeping any such arms, ammunition, medals, clothes, furniture, provisions, spirits, articles, necessaries, or forage, and shall not give a satisfactory account how he or she came by the same, or shall change the colour of any clothes as aforesaid, shall forfeit fer every such offence any sum not exceeding twenty pounds, together with treble the value of all or any of the several articles of which such offender shall so become or be possessed; and if any person having been so convicted shall afterwards be guilty of any such offence, he shall for every such offence forfeit any sum not exceeding twenty pounds, but not less than five pounds, and the treble value of all or any of the several articles of which such offender shall have so become possessed, and shall in addition to such forfeiture be committed to the Common Gaol or House of Correction, there to be imprisoned, with or without hard labour, for such term, not exceeding six calendar months, as the convicting Justice or Justices shall think fit; and upon any information against any person for a second or any subsequent offence, a copy of the former conviction certified by the proper officer having the care or custody of such conviction, or any copy of the same proved to be a true copy, shall be sufficient evidence to prove such former conviction; and if any credible person shall prove on oath before a Justice of the Peace, or person exercising like authority according to the laws of the part of Her Majesty's dominions in which the offence shall be committed, a reasonable cause to suspect that any person has in his or her possession or on his or her premises, any property of the description hereinbefore described, on or with respect to which any such offence shall have been committed, such Justice may grant a warrant to search for such property as in the case of stolen goods; and if upon such search any such property shall be found, the same shall and may be seized by the officers charged with the execution of such warrant, who shall bring the offender in whose possession the same shall be found before the same or any other Justice of the Peace, to be dealt with according to law: Provided, always, that it shall be lawful for the Legislature of any of Her Majesty's foreign dominions, on the recommendation of the officer or officers for the time being administering the Government thereof, but not otherwise, to make provision by law for reducing such pecuniary penalty, if not exceeding twenty pounds, to such amount as may to such Legislature appear to be better adapted to the ability and pecuniary means of Her Majesty's subjects and others inhabiting the same, which reduced penalty shall be sued for and recovered in such and the same manner as the full penalty hereby imposed: Provided, also, that it shall be competent to Her Majesty, or to the person or persons administering the Government of any such foreign dominions as aforesaid, to exercise, in respect of the laws so to be passed as aforesaid, all such powers and authorities as are by law vested in Her

Majesty or in any such officer or officers as aforesaid in respect of any other law made or enacted by any such Legislature."

And whereas the officers now administering the Government of British India have recommended that the pecuniary penalty aforesaid, if not exceeding twenty pounds, shall be reduced to the amount hereinafter mentioned as being better adapted to the ability and pecuniary means of Her Majesty's subjects and others inhabiting British India: And whereas it is expedient to give effect to such recommendation; In exercise of the said power for this purpose contained in the said Act and of every other power enabling the Governor-General of India in Council in this behalf, and on the recommendation aforesaid; It is hereby enacted as follows:

Reduction of pecuniary penalties provided by Mutiny Act.

I. From and after the passing of this Act, wherever the pecuniary penalty which might have been imposed under the said recited Section if this Act had not been passed shall not exceed twenty pounds or 200 Rupees, the first part of the said Section shall be read as if for the words "twenty pounds," wherever they occur, the words "fifty Rupees" were substituted, and as if for the words "five pounds," the words "five rupees" were substituted.

Act No. VIII. of 1867.

An Act to amend the law relating to Horse-racing in India.

Preamble.

Whereas it is expedient to exempt certain transactions connected with horse-racing from the operation of Act XXI. of 1848 *(for avoiding wagers)*; It is hereby enacted as follows:

Subscriptions of agreements to subscribe to plates, &c., may be lawful, notwithstanding Act XXI. of 1848.

I. No subscription or contribution, or agreement to subscribe or contribute, made or entered into after the passing of this Act, for or toward any plate, prize, or sum of money, of the value or amount of 500 Rupees or upwards, to be awarded to the winner or winners of any horse-race, shall be deemed unlawful by reason of anything contained in the said Act XXI. of 1848.

Nothing in this Act to legalize lotteries.

II. Nothing in this Act shall be deemed to legalize any transaction connected with horse-racing to which the provision of Act V. of 1844 *(for the suppression of all Lotteries not authorized by Government)* apply.

Act No. IX. of 1867.

An Act to make further provision for suits by and against the Comptoir D'Escompte of Paris.

Preamble.

Whereas it is expedient to make further provision for suits and other proceedings by or on behalf of or against the Comptoir D'Escompte of Paris; It is hereby enacted as follows:

Construction of certain Sections of Act VIII. of 1864.

I. In Act VIII. of 1864 *(to enable the "Comptoir D'Escompte of Paris" to sue and be sued in the name of the Chief Manager of the Indian Agencies of the said Company)*, Sections 2, 3, 4, 5, 12, and 13, the expressions Chief Manager of the Agencies in British India of the said Comptoir

D'Escompte' and 'Chief Manager' shall be taken to include any person for the time being acting as Chief Manager of the said Agencies, or being or acting as Manager of such one of the same Agencies as may be situate within the jurisdiction of the Court in which the suit or proceeding mentioned in any of the said Sections may be instituted or carried on.

Act to be read with Act VIII. of 1864.

II. This Act shall be read with, and taken as part of, the said Act VIII. of 1864.

ACT No. X. OF 1867.

An Act to empower Courts of Small Causes in the Mofussil to refer for decision questions arising previous to the hearing of suits or in the execution of decrees or orders.

Preamble.

Whereas it is expedient to enable the Courts constituted under Act XI. of 1865 *(to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature)* to refer for the decision of the High Court within whose jurisdiction they may respectively be situate, questions of law or usage having the force of law arising previous to the hearing of suits under the said Act or in the execution of decrees or orders in such suits; It is hereby enacted as follows:

Power to refer to High Court questions arising previous to the hearing of suits or in the execution of decrees or orders.

I. If at any point in the proceedings previous to the hearing of a suit under the said Act, or if in the execution of the decree or order in any such suit, any question of law or usage having the force of law shall arise, the Court, in suits for an amount not exceeding 500 Rupees, may, either of its own motion or on the application of any of the parties to the suit, and in the suits for an amount greater than 500 Rupees, shall draw up a statement of the case, and refer it with the Court's own opinion thereon to the decision of the High Court within whose jurisdiction such Court may be situate. If the question has arisen previous to the hearing, the Court may either stay such proceedings, or proceed in the case notwithstanding such reference, and pass a decree contingent upon the opinion of the High Court upon the point referred. If a decree has been made, the execution of the decree shall be stayed until the receipt of the order of the High Court upon such reference. All the provisions contained in this Section shall apply, *mutatis mutandis*, to the stating of a case by a Registrar.

This Act to be read with Act XI. of 1865.

II. This Act shall be read with, and taken as part of, Act XI. of 1865; and the provisions contained in Sections 24, 25, 26, 27, and 28 of that Act shall, *mutatis mutandis*, apply to cases referred under this Act.

ACT No. XI. OF 1867.

An Act to empower the Oriental Gas Company, Limited, to extend their operations to certain places in British India.

Preamble.

Whereas under or by virtue of Act V. of 1857 *(to confer certain powers on the Oriental Gas Company, Limited)*, certain powers exercisable only in Calcutta and its

environs were conferred on the Oriental Gas Company, Limited: And whereas it is expedient to empower the said Company to extend, with the previous sanction of the local Government, their operations to any other place in British India; It is hereby enacted as follows:

Interpretation Clause. "British India."

I. In this Act—"British India" means the territories which are or may become vested in Her Majesty or Her Successors by the Statute 21 and 22 Vict., chap. 106 *(An Act for the better Government of India)*;

"Local Government."

And in any part of British India in which this Act shall operate, "Local Government" means the person or persons authorized by law to administer Executive Government in such part.

Power to extend Act V. of 1857.

II. The local Government may, by notification in the official Gazette, extend the said Act V. of 1857 to any place within the territories subject to such Government, other than Calcutta and its environs: Provided that, in every place to which the said Act shall be so extended, Section 3 of the same Act shall be read as if for the words 'Town of Calcutta,' the name of the place to which the said Act shall be so extended were substituted: Section 7 of the same Act shall be read as if for the words and figures 'Act XIV. of 1856,' the following words were substituted: (that is to say), 'any law for the time being in force to provide for the conservancy and improvement of such place:' Section 22 of the said Act shall be read as if after the words 'Joint Stock Companies' Act, 1856,' the following words were inserted: (that is to say), 'the Indian Companies' Act, 1866, or any other Statute or Act for the time being in force relating to Joint Stock Companies'; and as if for the expression 'Supreme Court of Judicature at Fort William', the name of the highest Civil Court of appeal in such place were substituted; and as if for the expression 'the territories of the East India Company,' the expression 'British India' as defined in this Act were substituted.

Act No. XII. of 1867.

1. Interpretation of terms. "High Court." "Sheriff." "Magistrate."
2. Repealed.
3. No one to be committed to Sheriff; and writs not to be issued to Sheriff. Warrant and writs to be directed to Police Officers.
4. Local Government may appoint Superintendent of Presidency Jail.
5. Superintendents to detain persons committed.
6. Superintendents to return writs, &c., after execution or discharge with certificates.
7. Persons sentenced by High Court to imprisonment or death to be delivered to the Superintendent.
8. Persons sentenced by High Court to transportation or penal servitude to be delivered for intermediate custody to Superintendent.
9. Order under Mutiny Act for intermediate custody.
10. Committals by High Court in execution of a decree or for contempt.
11. Persons sentenced by Magistrate to imprisonment, or imprisoned for non-payment of fine, to be delivered to Superintendent with a warrant.
12. Persons committed by Justice or Magistrate for trial by High Court to be delivered to Superintendent with warrant. Committals by Coroners.
13. Custody pending enquiries under Act XXIII. of 1861, Section 8.
14. Persons arrested in pursuance of warrant of High Court or Small Cause Court to be delivered to Superintendent.
15. Persons confined in Great Jail of Calcutta or Jails of Madras or Bombay shall be deemed to be in custody of Superintendent.
16. Warrant under Regulation III. of 1818, Bengal Code, and Regulation II. of 1819, Madras Code, and Regulation XXV. of 1827, Bombay Code, may be directed to Superintendent.
17. Provisions of Statute 11, Vict., chap. 21, as to prisoners, to extend to persons in custody of Superintendent.
18. Construction of Section 25 of Act XLVIII. of 1860.
19. Commencement of Act.
20. Short Title.

An Act to amend the law relating to the custody of prisoners within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras, and Bombay.

Preamble.

Whereas it is expedient that, within the local limits of the original jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras, and Bombay, persons should, for the purpose of being received and detained in prison, be committed to the custody of an officer appointed by the local Government, instead of to the custody of the Sheriff of Calcutta, Madras, or Bombay, as the case may be; It is enacted as follows:

Interpretation of terms

I. In this Act—unless there be something repugnant in the subject or context—

"High Court."

"High Court" denotes Her Majesty's High Court of Judicature at Fort William in Bengal, Madras, or Bombay, as the case may be, and includes a Judge or Judges thereof and a Division Court:

Sheriff."

"Sheriff" denotes the Sheriff of Calcutta, Madras, or Bombay, as the case may be:

"Magistrate"

"Magistrate" includes a Magistrate of Police appointed under any Act for the time being in force for regulating the Police of the Towns of Calcutta, Madras, and Bombay.

II. *Repealed by the Repealing Act XIV.*, 1870.

No one to be committed to Sheriff; And writs not to be issued to Sheriff

III. No person shall be committed to the Sheriff to be received and detained in prison; and no writ shall be awarded to the Sheriff commanding him to arrest and seize the body of any offender. But all writs or warrants for the arrest or apprehension of any person, issued or awarded by the High Court in the exercise of its ordinary, extraordinary, or other criminal jurisdiction, shall be directed to, and executed by, any officer or officers of Police within the limits of such jurisdiction.

Warrants and writs to be directed to Police officers.

Local Government may appoint Superintendent of Presidency Jail.

IV. It shall be lawful for the local Government to appoint an officer who shall be called in Calcutta the Superintendent of the Presidency Jail, and in Madras and Bombay the Superintendent of Jails for the Town of Madras or Bombay, as the case may be, and who shall have authoirty to receive and keep prisoners committed to his custody under the provisions of this Act.

Superintendents to detain persons committed

V. The said jails shall be the jails of Calcutta, Madras, and Bombay respectively, and the Superintendents so to be appointed are hereby respectively authorized and required to keep and detain all persons duly committed to their custody pursuant to the provisions of this Act or otherwise, by any Court, Judge, Justice of the Peace, Magistrate of Police, Coroner or other public officer lawfully exercising civil or criminal jurisdiction according to the exigency of any writ, warrant or order by which such person shall have been committed, or until such person shall be discharged by due course of law.

Superintendents to return writs, &c., after execution or discharge with certificates.

VI. The said Superintendent shall forthwith after the execution of every such writ, order or warrant, except warrants of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the Court or other officer by which or

by whom the same shall have been issued or made, together with a certificate endorsed thereon and signed by such Superintendent, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

Persons sentenced by High Court to imprisonment or death to be delivered to the Superintendent

VII. Whenever any person shall be sentenced by the High Court in the exercise of its original criminal jurisdiction to imprisonment or to death, the Court shall cause such person to be delivered to the said Superintendent together with the warrant of the said Court, and such warrant shall be executed by such Superintendent and returned by him to the High Court when executed.

Persons sentenced by High Court to transportation or penal servitude to be delivered for intermediate custody to Superintendent.

VIII. Whenever any person shall be sentenced by the High Conrt in the exercise of its original criminal jurisdiction to transportation or penal servitude, the Court shall cause such person to be delivered for intermediate custody to the said Superintendent, and the imprisonment of such person shall have effect from such delivery.

Order under Mutiny Act for intermediate custody.

IX. Whenever any Judge of a High Court shall under any Act for the time being in force for punishing mutiny and desertion and for the better payment of the Army and their quarters, make order for the intermediate custody of an offender sentenced by a Court-Martial holden in India, the Judge shall order such offender to be detained for intermediate custody by the said Superintendent.

Committals by High Court in execution of a decree or for contempt

X. Whenever any person shall be committed by the High Court, whether in execution of a decree or for contempt of Court, or other cause, such person shall be taken by the officer to be appointed for that purpose by such Court, and shall be delivered to the said Superintendent, together with a warrant of commitment.

Persons sentenced by Magistrate to imprisonment, or imprisoned for non payment of fine, to be delivered to Superintendent with a warrant.

XI. Whenever any person shall be sentenced by a Magistrate of Police for the the Town of Calcutta, Madras, or Bombay, to imprisonment, either absolutely or for default of payment of any fine imposed by any such Magistrate, or shall be committed to prison for failure to find security to keep the peace and to be of good behaviour, the Magistrate shall cause such person to be delivered to the said Superintendent, together with a warrant of the Court.

Persons committed by Justice or Magistrate for trial by High Court to be delivered to Superintendent with warrant

XII. Every person committed by a Justice of the Peace or Magistrate or Coroner for trial by the High Court in the exercise of its original criminal jurisdiction, shall be delivered to the said Superintendent, together with a warrant of commitment directing him to have the body of such person before the Court for trial, and such Superintendent shall as soon as practicable cause such person to be taken before the Court at a Criminal Session of the said Court, together with the warrant of commitment, in order that such person may be dealt with according tol aw.

Committals by Coroners.

Every person committed by a Coroner shall be delivered to the said Superintendent, together with a warrant of commitment.

Custody pending enquiries under Act XXIII. of 1861, Section 8.

XIII. Pending any such enquiry as is mentioned in Section 8 of Act XXIII. of 1861 *(to amend Act VIII. of 1859)*, which the High Court may consider it necessary to make, the defendant may be delivered by the officer of the said Court to the said Superintendent, subject to the provisions as to deposit of fees and as to release on security contained in the same Section, and such Superintendent is hereby authorized and required to detain such defendant in safe custody until he shall be re-delivered to the officer of the Court for the purpose of being taken before the said Court in pursuance of an order of the said Court or of a Judge thereof, or until he shall be released by due course of law.

Persons arrested in pursuance of warrant of High Court or Small Cause Court to be delivered to Superintendent.

XIV. Every person arrested in pursuance of a writ, warrant or order of the High Court in the exercise of its original civil jurisdiction, or in pursuance of a warrant of any Court established in Calcutta, Madras, or Bombay under Act IX. of 1850 *(for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay)*, or in pursuance of a warrant issued under Section 3 of this Act, shall be brought without delay before the Court by which or by a Judge of which the writ, warrant or order was issued, awarded or made, or before a Judge thereof, if the said Court or a Judge thereof shall be then sitting for the exercise of original jurisdiction; and if such Court or a Judge thereof shall not be then sitting for the exercise of original jurisdiction, shall, unless a Judge of the said Court shall otherwise order, be delivered to the said Superintendent for intermediate custody, and shall be brought before the said Court or a Judge thereof at the next sitting of the said Court or of a Judge thereof for the exercise of original jurisdiction, in order that such person may be dealt with according to law; and the said Court or Judge shall have power to make or award all necessary orders or warrants for that purpose.

Persons confined in Great Jail of Calcutta or jails of Madras or Bombay shall be deemed to be in custody of Superintendent.

XV. All persons confined in the Great Jail of Calcutta, or in any of the jails of the Town of Madras or Bombay under process or sentence of any of Her Majesty's late Supreme Courts of Judicature or of the High Courts or of any Magistrate, shall be considered to be and shall remain in the custody of the said Superintendent according to the terms of the warrants under which they shall have been respectively committed to custody.

Warrant under Regulation III of 1818, Bengal Code, Regulation II of 1819, Madras Code, and Regulation XXV. of 1827, Bombay Code, may be directed to Superintendent.

XVI. Any warrant of commitment under Regulation III. of 1818 of the Bengal Code *(for the confinement of State prisoners)*, Regulation II. of 1819 of the Madras Code *(for the confinement of State prisoners,)* and Regulation XXV. of 1827 of the Bombay Code *(for the confinement of State prisoners, and for the attachment of the lands of chief tains and others, for reasons of State)*, may be directed to the said Superintendent in the same manner as the same might have been directed to the Sheriff under Act XXXIV. of 1850 *(for the better custody af State prisoners)* and Act III. of 1858 *(to amend the law relating to the arrest and detention of State prisoners.)*

Provisions of Statute 11 Vict., chap. 21, as to

XVII. The provisions contained in the Statute 11 Vict., chap. 21 *(to consolidate and amend the laws relating to insolvent debtors in India)*, relating to persons in prison or

Prisoners, to extend to persons in custody of Superintendent.

liable to be arrested or detained in or remanded or re-committed to, or entitled to be discharged from prison within the limits of the Towns of Calcutta, Madras, and Bombay respectively, shall apply to all persons in the custody of the said Superintendent, or liable to be delivered to or entitled to be discharged from his custody.

Construction of Section 25 of Act XLVIII. of 1860.

XVIII. Section 25 of Act XLVIII. of 1860 (*to amend Act XIII. of* 1856), *for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malaca*), shall be construed in Madras and Bombay as if the words "Superintendent of Jails for the Town of Madras" or "Bombay," as the case may be, were substituted for the words "Keeper or Governor of the Jail or House of Correction."

Commencement of Act.

XIX. This Act shall come into operation in Calcutta at once, and in Madras and Bombay respectively, from such date as the local Government shall notify in the local Gazette.

Short title.

XX. This Act may be called "The Presidency Jails' Act, 1867."

SCHEDULE.

Repealed by the Repealing Act XIV., 1870.

Act No. XIII. of 1867.

1 Port-due of five annas six pie chargeable on vessels of twenty-five tons entering Moulmein or Bassein.
2 Section 1 to be read with Acts XXXV. of 1857 and XXV of 1860.
3. Coast light dues payable in respect of vessels of fifty tons.
4 Payment of light dues by vessel taking cargo off coast.
5. Exemption of vessels making certain voyages from coast light dues.
6. Ships to pay tolls on return voyages
7. Ships-of-war to be exempt from toll.
8. Management of the lights vested in the Chief Commissioner of British Burmah.
9. Appointment of Collector of Tolls.
10. Tolls to be paid before port-clearance is granted.
11. Tolls to be paid to proper officer, who shall give a receipt for the same.
12. Port clearance not to be granted till tolls are paid, and ship and goods may be distrained and sold for tolls.
13. Collector may sue for recovery of tolls.
14. Burden of ship how to be ascertained.
15. Evading payment of tolls.
16. Magistrate to decide disputes respecting tolls.
17. Governor-General in Council may alter rates of tolls.

An Act for the levy of enhanced Port-dues in the Ports of Moulmein and Bassein, and to provide for the establishment and maintenance of Coast Lights in the eastern part of the Bay of Bengal.

Preamble.

Whereas under Act XXXV. of 1857 (*for the levy of Port-dues in the Ports of Moulmein, Rangoon, Kyouk-Phyoo, Akyab, and Chittagong*), and under Act XXV. of 1860 (*for the levy of Port-dues in the Port of Bassein*), the maximum rate of port-dues leviable in the ports of Moulmein and Bassein is four annas for every ton of burden in respect of every sea-going vessel of the burden of ten tons and upwards which shall enter the same ports respectively: And whereas, for the purpose of defraying the expense of maintaining the port-lights of British Burmah, it is expedient to enhance the rate so leviable to the extent hereinafter mentioned: And whereas

lights have been established on the Cocos and on the Alguada Reef, and a light to be called "the Oyster Reef Light," and other lights or beacons are intended to be hereafter established and maintained in the eastern part of the Bay of Bengal for the safety and guidance of ships navigating the same: And whereas it is just and reasonable that such ships should be liable to contribute to the expense of the lights and beacons last aforesaid; It is hereby enacted as follows:

Port-due of five annas six pie chargeable on vessels of twenty-five tons entering Moulmein or Bassein.

I. A port-due not exceeding the rate of five annas and six pie per every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of twenty-five tons and upwards, which shall enter either of the said ports of Moulmein and Bassein: and such port-due shall, to the extent of one anna six pie, be applicable in the first place to defray the expense of maintaining the existing port-lights of British Burmah.

Section 1 to be read with Acts XXXV. of 1857 and XXV. of 1860.

II. The last preceding Section shall be read with, and taken as part of, the said Acts XXXV. of 1857 and XXV. of 1860.

Coast light dues payable in respect of vessels of fifty tons

III. From after the passing of this Act, a toll to be called Coast Light Dues shall be paid in respect of every vessel of the burden of fifty tons and upwards, at the rate of one anna per ton of burden, in the cases following, (that is to say):—

(1.)—If the voyage of such vessel be from the Straits of Malacca or from any place eastward of the said Straits to Bassein:

(2.)—If the voyage be from Akyab to Bassein, Rangoon or Moulmein:

(3.)—If the voyage be from the said Straits or from any place eastward of the said Straits to Akyab, or from Bassein, Rangoon, Moulmein, or the coast of Tenasserim to Akyab:

(4.)—If the voyage be from Calcutta, Madras, or any other place on the eastern coast of India, or from Ceylon or any port to the westward of Ceylon, to Akyab, from and after the establishment and during the maintenance of the said Oyster Reef Light:

(5.)—If the voyage be from Calcutta, Madras, or any other place on the eastern coast of India, or from Ceylon or any port to the westward of Ceylon, to Bassein, Rangoon, Moulmein or any port on the Tenasserim Coast.

(6.)—If the voyage be to the port of Calcutta from Port Blair, the Straits' Settlement, or any place eastward of Port Blair, except the Ports of British Burmah:

(7.)—If the voyage be from Calcutta to Port Blair, the Straits' Settlement, or any place eastward thereof:

(8.)—If the voyage be from Rangoon or Moulmein to Bassein, or from Bassein to Rangoon or Moulmein, from and after the establishment, and during the maintenance of a light either on the Baraguay Flat or on the Krishna Shoal.

Payment of light dues by vessel taking cargo off coast.

IV. Any vessel taking in any cargo off the coast of British Burmah and not entering any port for that purpose, shall pay the same light dues as she would have been liable to pay had she taken in her cargo at the port at which a port-clearance shall be granted to such vessel.

Exemption of vessels making certain voyages from coast light dues

V. Nothing hereinbefore contained shall authorize the levy of coast light dues on vessels making the voyage from the Straits of Malacca, or from any place to the eastward thereof, to Rangoon or Moulmein.

Ship to pay tolls on return voyages.

VI. The return of a ship from any port or place shall be deemed a distinct voyage within the meaning of this Act, notwithstanding toll shall have been paid in respect of her voyage to such port or place, and notwithstanding the terms of any charter-party.

Ships of-war to be exempt from toll.

VII. Notwithstanding anything hereinbefore contained, Ships-of-war belonging to Her Majesty or to any Foreign Government or State, shall be exempt from the payment of the tolls leviable under this Act.

Management of the lights vested in the Chief Commissioner of British Burmah.

VIII. The management and control of the said coast lights and the other lights and beacons mentioned or referred to in the preamble to this Act, are hereby vested in the Chief Commissioner of British Burmah, subject to the directions of the Governor-General of India in Council.

Appointment of Collector of Tolls.

IX. The said Chief Commissioner may appoint any person he may think fit to be a Collector of the tolls leviable under this Act, at any port, harbour, or place under his administration.

Tolls to be paid before port-clearance is granted.

X The tolls to be levied under Section 3 of this Act shall become due and be payable, in respect of any ship clearing out or departing from any port, harbour, or roadstead, in the possession of or under the Government of India, upon any such voyage as aforesaid, previously to the granting of any port-clearance for such ship, or, in the event of her not requiring a port-clearance, on her preparing to leave such port, harbour, or roadstead on such voyage; and in respect of any ship entering any such port, harbour, or roadstead as aforesaid, upon or during, or at the termination of any such voyage from any port or place not under the Government of India, the toll shall be payable immediately upon her entering such port, harbour, or roadstead.

Tolls to be paid to proper officer, who shall give a receipt for the same.

XI. The Collector or other chief officer of Customs at any port, harbour, or place in the possession of or under the Government of India, or any other officer whom the Government to which such port, harbour, or place is subordinate may appoint to receive the tolls last hereinbefore referred to, shall collect the same by himself, or by any officer in his establishment whom he shall appoint. The officer to whom any such toll shall be paid shall grant to the person paying the same a proper voucher in writing, under his hand, describing the name of his office, and the port or place at which such payment shall be made, the name, tonnage, and other proper description of the ship, and the voyage in respect of which such toll shall be paid.

Port-clearance not to be granted till tolls are paid, and ship and goods may be distrained and sold for tolls.

XII. The officer of Government whose duty it shall be to grant a port-clearance for any ship clearing out of, or leaving any such port, harbour, or place under the Government of India, shall not grant such port-clearance to any ship until the owner or agent of such ship, or the master or other person in command thereof, shall

pay all tolls to which such ship shall be liable under Section 3 of this Act, or produce a proper voucher for, or give satisfactory proof of the payment of such tolls at the same or some other port or place. If any master or owner or other person having the charge of any ship liable to the payment of any tolls under Section 3 of this Act, shall refuse or neglect to pay the amount thereof to the person authorized to collect or receive the same, such person may distrain or cause to be distrained any goods or merchandize, to whomsoever the same may belong, on board such ship, and any tackle, apparel, or furniture belonging to such ship, and may remove the same, or cause the same to be removed, to some convenient place, leaving on board such ship notice in writing of such distress, and of the cause thereof, and of the place of removal: if such tolls, together with the costs of such distress and removal, shall not be paid within three whole days after the seizure, exclusive of the day of such seizure, the person authorized to collect or receive such tolls may cause the goods, merchandize, tackle, apparel, and furniture so seized to be sold, and out of the proceeds of such sale shall pay the amount of the tolls to which such ship may be liable under this Act, together with the reasonable costs of such seizure, detention, and sale, rendering to the master or owner, or other person having the command of such vessel, the over-plus, if any, on demand.

Collector may sue for recovery of tolls.

XIII. Notwithstanding anything in this Act contained, the person authorized to collect the said tolls at any such port, harbour, or place aforesaid, may, in his own name, sue for and recover, on behalf of the Government of India, the amount of any tolls payable to him under this Act, by suit in any of the Civil Courts against the owner or master, or other person who, at the time of such toll becoming due, shall have the command of any ship liable thereto.

Burden of ship how to be ascertained.

XIV. In order to ascertain the burden of any ship liable to pay toll under Section 3 of this Act, the person authorized to collect such toll may require the owner, master, or other person in command of such ship, or any person having possession of the same, to produce the register of such ship for the inspection of such person, if the ship shall be a British registered ship or a ship registered in any part of the territories vested in Her Majesty or Her Successors under the Statute 21 and 22 Vict., chap. 106 (*An Act for the better Government of India*), and upon the refusal or neglect of any such owner, master, or other person to produce such register, or, if such ship shall not be a ship registered as aforesaid, upon the refusal or neglect of such owner or master to satisfy the person authorized to collect such tolls as to what is the true burden of the ship, it shall be lawful for such person to cause such ship to be measured at the expense of the master thereof, and such expense shall be recoverable in the same manner as tolls payable under Section 3 of this Aet, or it shall be lawful for such person to deliver to such master, owner, or other person in command of the ship or in the possession thereof, or to leave for him on board such ship, a notice in wr ting specifying what in his judgment is the burden of the ship, and the burden specified in such notice shall be deemed to be the real burden of the ship and be treated as such for all the purposes of this Act, until the owner, master, or other person having the command of the ship shall give sufficient proof of the true burden thereof.

Evading payment of tolls.

XV. The master of any ship which shall depart from or enter any such port, harbour, or roadstead as aforesaid, upon, or in the course of, or at the termination of any voyage, shall, upon demand by any person authorized to collect or receive tolls under Section 3 of this Act, specify upon what voyage he is bound; and if any master of any such ship shall refuse or neglect so to do, or shall give a false statement, or shall endeavour to evade the payment of any tolls payable under Section 3 of this Act, or shall obstruct any officer of Government in the discharge of his duty under this Act, he shall be punishable by a Magistrate in a summary manner by a fine not exceeding 200 Rupees.

Magistrate to decide disputes respecting tolls.

XVI. If any dispute shall arise respecting the liability of any ship to the payment of toll under Section 3 of this Act, or in respect of the burden of any ship, or the amount of toll payable, or the amount of any charges on account of any distress, removal, or sale under this Act, such dispute shall be heard and determined by a Magistrate in a summary manner, and the decision of such Magistrate shall be final.

Governor-General in Council may alter rates of tolls.

XVII. The Governor-General of India in Council may, from time to time as he may think fit, reduce the tolls payable under this Act, in respect of all vessels or of any particular class or classes of vessels, and again raise the same to any amount not exceeding the amounts above specified.

ACT No. XIV. OF 1867.

1. Persons on whom the Pándharí tax is assessable. Limitation of rates of assessment.
2. Chief Commissioner may make rules as to assessment and collection of the Pándharí tax.
3. For what the rules may provide.
4. Recovery of arrears.
5. Breaches of rules by whom triable.
6. Extension of this Act to other parts of the Central Provinces.
7. Indemnity Clause.

An Act to provide for the assessment of the Pándharí tax in certain parts of the Central Provinces.

Preamble.

Whereas there has for many years existed, and now exists in certain districts of the Central Provinces, a tax called the Pándharí tax, assessable on all persons not engaged in agriculture: And whereas it is expedient to make rules for regulating the assessment of such tax; It is enacted as follows:

Persons on whom the Pándharí tax is assessable.

I. The Pándharí tax is hereby declared to be assessable on all persons dwelling or personally working for gain or carrying on business within the districts of Nagpore, Wurdah, Chandah, Bhundara, Chindwarra, Raepore, Belaspore, and Sumbulpore, any part of whose income is derived from any source other than agriculture: Provided that no person whose estimated income is less than 75 Rupees a year shall be assessed to the said tax; that no person shall be assessed to the said tax at a rate exceeding two *per centum* on his estimated income, and that no person shall be assessable to the said tax at a sum exceeding 500 Rupees per annum.

Limitation of rates of assessment.

Chief Commissioner may make rules as to

II. The Chief Commissioner of the Central Provinces may from time to time, with the previous sanction of the Governor-General of India in Council, make and pub-

assessment and collection of the Pandhari tax.

lish in such manner as may seem fit rules not inconsistent with the provisions of this Act or of any other law for the time being in force, to provide (amongst other things) for the matters hereinafter mentioned.

For what the rules may provide.

III. The rules made under the last preceding Section may provide:—

(1.)—For regulating the manner, and rates, and classes of assessments:

(2.)—For regulating the time and manner of collecting the amount assessed; and for allowing, to the persons employed in the collection, fees not exceeding three *per centum* on the amount assessed upon the tax-payers:

(3.)—For the imposition of penalties on persons convicted of the breach of any rule or regulation made under the last preceding Section: Provided that no penalty shall exceed a fine of 50 Rupees, or imprisonment for a term not exceeding eight days:

(4.)—For exempting from the operation of this Act special classes of persons in receipt of fixed salaries or pensions, in respect of such salaries or pensions:

(5.)—For determining the person or persons by whom and the manner in which, in the case of any person to whom this Act shall apply, his or her estimated income, within the meaning of Section 1 of this Act, shall be ascertained.

Recovery of arrears.

IV. Arrears of the said tax shall be recoverable by distress and sale of any moveable property belonging to the defaulter; or, when he or she shall not have any moveable property of which a distraint can be made, or when, after his or her moveable property shall have been distrained and sold, the arrear due together with all expenses of the distress and sale is not liquidated by the proceeds of such sale, then under such rules and procedure as may, for the time being, be in force in the Central Provinces for the realization out of immoveable property of land revenue.

Breaches of rules by whom triable.

V. Breaches of rules made under Section 2 of this Act shall be triable by any Magistrate.

Extension of this Act to other parts of the Central Provinces.

VI. The provisions of this Act may be extended by order of the Governor-General of India in Council to any district or districts of the Central Provinces other than those named in Section 1 of this Act.

Indemnity Clause.

VII. Every Deputy Commissioner and other officer in the Central Provinces, however such officer is designated, is hereby indemnified for anything done before the passing of this Act, which might lawfully have been done if this Act had been in force; and no suit or other proceeding shall be maintained against any such Deputy Commissioner or other officer in respect of anything so done.

ACT No. XV. OF 1867. *

1. Interpretation Clause, "Committee." "Lieutenant-Governor." Number.
2. Power to extend this Act to towns.
3. Existing Committees to be deemed Committees under this Act.
4. Power to define limits of towns to which Act extends.
5. Power to appoint members of Committee.
6. Power to levy rates or make assessments.
7. Power to make rules for collection and application of rates.
8. Municipal Fund.
9. Duties and Powers of Committees.
10. Power to make rules.
11. Power to make Bye-laws as to nuisances and registration of births and deaths.
12. Power to suspend or limit powers of Committee.
13. Provisions for Police.
14. Bye-laws to be confirmed and published.
15. Suits by and against Committees. Contracts of Committees. Liability of members of Committees.
16. No suit to be brought against the Committee or their officers, until after one month's notice of cause of suit.
17. Penalty on member or servant of Committee being interested in contracts made with Committee.
18. Penalty for infringement of rules or bye-laws, or non-payment of fines.
19. Prosecutions. Fines. Recovery of Rates.
20. Existing assessments and bye-laws to be deemed to have have been made under this Act.
21. Application of Section 20 to Central Provinces and Oudh.
22. Expiration of Act.

An Act to make better provision for the appointment of Municipal Committees in the Punjab, and for other purposes.

Preamble.

Whereas it is expedient to make better provision for the appointment of Municipal Committees in towns in the territories under the government of the Lieutenant-Governor of the Punjab, and for the Police, conservancy and local improvements, and for education, and for the levying of rates and taxes in such towns; It is enacted as follows:

I.—Preliminary.

Interpretation Clause.

I. In this Act—unless there be something repugnant in the subject or context—

"Committee."

"Committee" means a Municipal Committee appointed under the provisions of this Act:

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor of the Punjab:

Number.

Words in the singular number include the plural, and words in the plural number include the singular.

Power to extend this Act to towns.

II. The Lieutenant-Governor may extend this Act or any of its Sections or provisions, by notification in the local Gazette, to any town in the territories under his government.

Existing Committees to be deemed Committees under this Act.

III. From the date of the passing of this Act, all Municipal Committees previously appointed with the sanction of any Lieutenant-Governor or Chief Commissioner of the Punjab, other than Municipal Committees appointed under Act XXVI. of 1850 (*to enable improvements to be made in towns*), shall be deemed Committees under this Act. The Lieutenant-

* Extended to the town of Oonao in the Oudh Territory—see *Gazette of India*, 19th June, 1869, G. O. No. 2762; and to the town of Khyrabad in the district of Seetapore, by G. O. No. 1587—see *Gazette of India*, 27th March, p. 791; and to the town of Moorwarrah in the district of Jubbulpore, in the Central Provinces, by G. O. No. 135, in *Gazette of India*, 21st March, 1868, p. 401; and to the town of Baraich in Oudh by G. O. No 189, in *Gazette of India*, 25th April, 1868, p. 806; and to Perkinsgunge in the district of Sultanpore and to Roy Barielly by G. O. No. 2339, in *Gazette of India*, 30th May, 1868, p 920; and to Nawabgunge and Oonao, G. O. No. 221, in *Gazette of India*, 6th June, 1868, p. 937.

Governor may extend, by notification in the local Gazette, all or any of the provisions of this Act to Municipal Committees appointed under the said Act XXVI. of 1850. So much of any Act, Regulation, or Rule having the force of law, as may be inconsistent with any provision so extended to a Committee, shall, from and after the date of such extension, cease to have effect in the case of such Committee.

Power to define limits of towns to which Act extends.

IV. For the purposes of this Act, the Lieutenant-Governor may from time to time, by notification in the local Gazette, define the limits of any town to which this Act shall have been extended, and may include within the limits of such town any railway station, village, building or land in the vicinity of such town.

II.—Appointment, Duties and Powers of Committees.

Power to appoint members of Committee.

V. In any town to which this Act shall have been extended, the Lieutenant-Governor may appoint, either *ex-officio* or otherwise, or direct the appointment by election of any number of persons, not less than five, to be members of a Committee, or he may appoint some of the members of such Committee and direct the appointment of others by election for carrying out the purposes of this Act. The Lieutenant-Governor may from time to time remove any of the members of any Committee, add to their number, and fill up vacancies occurring among them. The Lieutenant-Governor may determine the time and manner of the election of those members whom he may direct to be appointed by election, and the persons by whom they shall be elected, and generally may make any rules for regulating the election of such members that he may think fit. The Lieutenant-Governor may also appoint the President and Vice-President, or either of them, of any Committee, or sanction the election by any Committee of one of their members as President or Vice-President or either of them. All appointments under this Section shall be notified in the local official Gazette.

Power to levy rates or make assessments.

VI. Every Committee may, with the previous sanction of the Lieutenant-Governor, define the persons or property within the town to be taxed for the purposes of this Act, the amount or rate of the taxes to be imposed, and may impose such taxes accordingly.

Power to make rules for Collection and application of rates.

VII. It shall be lawful for the Lieutenant-Governor from time to time to make rules as to the persons by whom, and the manner in which, any assessment of taxes under this Act shall be confirmed, and for the collection of such taxes and for the safety and due application of them when collected, and for the rendering and publishing of such estimates and accounts relating to the expenditure of the Municipal Funds, and in such form as he may think fit. The Lieutenant-Governor may from time to time repeal, alter or add to such rules. No tax shall be collected under this Act, until it shall have been confirmed by the persons and in manner hereinbefore mentioned.

Municipal Fund.

VIII. All sums received by the Committee of any town to which this Act extends, and all fines levied under this Act, shall constitute a fund, which shall be called the Municipal Fund of such town, and shall, together with all property which may become vested in such Committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

Duties and powers of Committees.

IX. Every Committee, so far as the Municipal Fund at their disposal will permit, shall, after providing out of such Fund for a Police establishment in manner hereinafter mentioned, keep the public streets, roads, drains, tanks, and water-courses of the town for which they are appointed clean and repaired, and may cause such streets and roads, or any of them, to be watered and lighted, and may construct new streets, drains, tanks, and water-courses, and may construct and provide for the management of poor-houses, dispensaries, market-places and other works of general utility, and generally may do all acts and things necessary for the purposes of conservancy and local improvement, and may also make provision, by the establishment of new schools or the aiding of already existing schools or otherwise, for the promotion of education in the town for which such Committee is appointed.

Power to make rules.

X. Any Committee may make rules for regulating the time and place of their meeting, the conduct of their business, the division of duties among the members of the Committee, the salaries, appointment, suspension and removal of the officers and servants of the Committee, and other similar matters.

Power to make bye-laws as to nuisances and registration of births and deaths.

XI. It shall be lawful for any Committee to make bye-laws for defining, prohibiting, and removing nuisances which are not public or common nuisances under the Indian Penal Code, or under Act V. of 1861 *(for the regulation of Police)*, and for the securing of a proper registration of births and deaths, and for carrying out all or any of the purposes of this Act. And the Committee may from time to time repeal, alter or add to such bye-laws.

Power to suspend or limit powers of Committee.

XII. The Lieutenant-Governor may, by order, suspend or limit all or any of the powers of any Committee, and may also cancel any of the proceedings or rules of any Committee.

Provision for Police.

XIII. Every Committee shall set apart out of the Municipal Fund such sum as the Lieutenant-Governor shall require for the maintenance of the Police establishment in the town.

Bye-laws to be confirmed and published.

XIV. No bye-law and no alteration or repeal of, or addition to, a bye-law shall have effect until the same shall have been confirmed by the Lieutenant-Governor. All bye-laws made under this Act, and all rules made under Section 10 of this Act, and all alterations and repeals of, and addition to, such bye-laws and rules, shall be published for such length of time and in such manner as the Lieutenant-Governor shall order.

III.—Suits by and against Committees.

Suits by and against Committees.

XV. Every Committee shall sue and be sued in the name of their President. Every contract made on behalf of any Committee in respect of any sum exceeding twenty rupees or in respect of any property exceeding twenty rupees in value, shall be in writing, and shall be signed by the President or Vice-President (if any) and at least two other members of the Committee, and unless so executed shall not be binding on the Committee. No member of a Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee, but the funds from time to time in the hands of the

Contracts of Committees.

Liability of members of Committees.

Committee shall be liable for, and chargeable with, all contracts duly made as aforesaid. Every member of a Committee shall be liable for any misapplication of money entrusted to the Committee to which he shall have been a party, or which shall happen through, or be facilitated by his neglect of his duty, and he shall be liable to be sued for the same in such Court as the Lieutenant-Governor shall direct as for money due to the Government.

No suit to be brought against the Committee or their officers, until after one month's notice of cause of suit.

XVI. No suit shall be brought against a Committee or any of their officers, or any person acting under their direction, for any thing done under this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Committee, or at the place of abode of such person, explicitly stating the cause of suit and the name and place of abode of the intended plaintiff; and unless such notice be proved, the Court shall find for the defendant; and every such suit shall be commenced within three months next after the accrual of the cause of suit, and not afterwards: and if any person to whom any such notice of suit is given shall, before suit brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

IV.—Penalties.

Penalty on member or servant of Committee being interested in contracts made with Committee.

XVII. No member of a Municipal Committee or servant of the Committee shall be interested directly or indirectly in any contract made with the Committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of 500 Rupees: Provided, always, that no person by being a shareholder in or member of any incorporated or registered Company, shall be disqualified from acting as a member or servant of a Committee by reason of any contract entered into between such Company and the Committee. Nevertheless, it shall not be lawful for such shareholder or member to act as a member of the Committee in any matter relating to any contract entered into between the Committee and such Company.

Penalty for infringement of rules or bye-laws, or non-payment of fines.

XVIII. Whoever infringes any rule made under Section 10 of this Act or any bye-law made and confirmed as directed in this Act, shall be liable to a fine not exceeding 50 Rupees, and, in the case of a continuing infringement, to a fine not exceeding five Rupees for every day after notice from the Committee of such infringement. In default of payment of any fine imposed under this Section, the defaulter shall be liable to be imprisoned for a term not exceeding eight days.

Prosecutions.

Fines.

Recovery of rates.

XIX. Prosecutions under this Act for infringements of rules or bye-laws may be instituted before any Magistrate by the Committee or any person authorized by the Committee in this behalf, and all fines imposed under this Act may be recovered in the manner prescribed in Section 61 of the Code of Criminal Procedure. Rates and arrears of rates imposed under this Act may be recovered as if they were fines.

V.—Miscellaneous.

Existing assessments and bye-laws to be deemed to have been made under this Act.

XX. All assessments, bye-laws, rules and regulations of any kind relating to matters provided for in this Act, which may previous to the passing of this Act, have been made by or received the approval of any Lieutenant-Governor or Chief Commissioner of the Punjab, shall be deemed to have been made in accordance with the provisions of this Act. And all proceedings taken under any such assessments, bye-laws, rules and regulations shall be deemed to be as valid as if they had been taken under this Act.

Application of Section 20 to Central Provinces and Oudh.

Power to extend this Act to Central Provinces and Oudh.

XXI. Section 20 of this Act shall apply to the Central Provinces and Oudh, as if for the words "Lieutenant-Governor or Chief Commissioner of the Punjab," the words "Chief Commissioner of the Central Provinces and Oudh" were substituted, and as if the extension next hereinafter mentioned had been made. And it shall be lawful for the Governor-General of India in Council to extend this Act or any of its provisions, by notification in the *Gazette of India* and the local official Gazette, to any town in the territories respectively under the administrations of the Chief Commissioners of the Central Provinces and Oudh, and on and after such extension, this Act shall be construed in such town as if the words "Lieutenant-Gevernor" were defined to include Chief Commissioners of the *Central Provinces and Oudh; as if for the word "Government," the word "administration" were substituted; and as if for the words and figures "Act XXVI. of 1850 *(to enable improvements to be made in towns)*," the words and figures "Act XVIII. of 1864 *(to provide for the appointment of a Municipal Committee for the City of Lucknow)*" were substituted: Provided that, when such extension shall be effected, the previous sanction of the Governor-General of India in Council shall be necessary to the validity of any order made by a Chief Commissioner under Section 12 of this Act.

Expiration of Act.

XXII. This Act shall expire in five years in the territories subject to the Lieutenant-Governor of the Punjab, and if it shall be extended to the Central Provinces or Oudh under the last preceding Section, it shall expire in such Provinces or Oudh, as the case may be, in five years from the date of such extension.

ACT No. XVI. OF 1867.

An Act to authorize the making of acting appointments to certain Judicial Offices.

Preamble.

Whereas the Governor-General of India in Council or the local Government, as the case may be, is empowered by divers enactments to appoint the Judges of certain Courts in British India: And whereas it has been doubted whether he or it is empowered to appoint persons to act temporarily as such Judges, and it is expedient to remove such doubts; It is hereby enacted as follows:

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* For the towns in the Territory under the Chief Commissioner of the Central Provinces, to which the provisions of this Act are extended, see G. O. No. 3423, in *Gazette of India*, 24th July, 1869, p. 133. And for the towns in the Province of Oudh, see G. O. No. 4270, in *Gazette of India*, 25th September, 1869, p. 299.

Power to appoint acting Judges.

I. In every case in which the Governor-General of India in Council or the local Government, as the case may be, has power under any Act or Regulation to appoint a Judge of any Court in British India, such power shall be taken to include the power to appoint any person capable of being appointed a permanent Judge of such Court, to act as Judge of the same Court for such time as the Governor-General of India in Council or the local Government, as the case may be, shall direct. Every person so appointed to act temporarily as a Judge of any such Court shall have the powers and perform the duties which he would have had and been liable to perform in case he had been duly appointed a permanent Judge of the same Court.

Certain enactments to be construed as if they contained a clause like Section 1 of this Act.

II. Every such Act and Regulation shall be construed as if it contained a special clause to the purport or effect of the first Section of this Act.

ACT No. XVIII. OF 1867.*

1. Short Title.
2. Repealed.
3. Certain rules regarding jurisdiction and procedure of Revenue officers in Jhansi to cease to have effect.
4. Interpretation Clause. "High Court." "Lieutenant-Governor." "Assistant Commissioner." "District." District Court." "Division." "Divisional Court."
6. Grades of Court in the Jhansi Division.
7. Lieutenant-Governor may declare grade to which a Tahsildar or Assistant Commissioner belongs.
8. Jurisdiction of Court of Tahsildar of the second class.
9. Jurisdiction of Court of Tahsildar of the first class
10. Jurisdiction of Court of Assistant Commissioner of the second class.
11. Jurisdiction of Court of Assistant Commissioner of the first class.
12. Jurisdiction of Court of Deputy Commissioner.
13. Jurisdiction of Court of Commissioner.
14. Appellate Jurisdiction of High Court.
15. Time for presenting appeals.
16. Extraordinary original jurisdiction.
17. High Court to superintend and to frame rules of practice for subordinate Courts.
18. Lieutenant-Governor may invest any one with powers of Commissioner or of Deputy Commissioner.
19. Court in which suit shall be instituted.
20. Appeal to lie from all decisions, except when expressly prohibited.
21. Deputy Commissioner may distribute business among subordinate Courts.
22. Transfer of suits from subordinate Court to Commissioner's or Deputy Commissioner's Court.
23. High Court may transfer suits from one subordinate Court to another.
24. Suits for immoveable property situate in different districts.
25. Suits for immoveable property situate in districts subject to different Commissioners.
26. Commencement of Act.

An Act to define the jurisdiction of the Courts of Civil Judicature in the Jhansi Division.

Preamble.

Whereas it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Jhansi Division; It is hereby enacted as follows:

Short Title.

I. This Act shall be called "The Jhansi Courts' Act, 1867."

II. *Repealed by the Repealing Act XIV.*, 1870.

Certain rules regarding jurisdictian and procedure of Revenue officers in Jhansi to cease to have effect.

III. So much of the rules passed by the Government of the North-Western Provinces, relating to the jurisdiction and procedure of Revenue officers within the districts of the Jhansi Division, and confirmed by the said Act XXIV. of 1864, Section 1, as directed that suits regarding landed property should be heard by the Revenue Courts, shall, from the date of this Act coming into operation, cease to have effect in the said districts with regard to all such suits except summary suits. And so much of the said rules as relates to summary

* Act XXVII., 1867, is to be read with, and taken as part of, this Act.

suits in the Revenue Courts, whether as Courts of first instance or appeal, shall remain in force until the said Government shall by notification in the official Gazette declare otherwise.

Interpretation Clause.

"High Court."

"Lieutenant Governor."

"Assistant Commissioner."

IV. In this Act—

"High Court" means the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in Bengal; "Lieutenant-Governor" means the Lieutenant-Governor of the said Provinces, and "Assistant Commissioner" includes Extra Asistant Commissioner.

"District."

"District Court."

"Division."

"Divisional Court."

V. For the purposes of this Act, the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

Grades of Courts in the Jhansi Division.

VI. There shall be seven grades of Courts in the Jhansi Division, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, *viz.*:—

(1.)—The Court of the Tahsildar of the second class:
(2.)—The Court of the Tahsildar of the first class:
(3.)—The Court of the Assistant Commissioner of the second class:
(4.)—The Court of the Assistant Commissioner of the first class:
(5.)—The Court of the Deputy Commissioner:
(6.)—The Court of the Commissioner:
(7.)—The High Court.

Lieutenant-Governor may declare grade to which a Tahsildar or Assistant Commissioner belongs.

VII. The Lieutenant-Governor shall have power to declare to which of the said grades any Tahsildar and any Assistant Commissioner in the said Division shall belong.

Jurisdiction of Court of Tahsildar of the second class.

VIII. The Court of the Tahsildar of the second class shall have power to try and determine suits of every description in which the subject-matter does not exceed 100 Rupees in value or amount.

Jurisdiction of Court of Tahsildar of the first class.

IX. The Court of the Tahsildar of the first class shall have power to try and determine suits of every description in which the subject-matter does not exceed 300 Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the second class.

X. The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description in which the subject-matter does not exceed 1,000 Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the first class.

XI. The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description in which the subject-matter does not exceed 5,000 Rupees in value or amount.

Jurisdiction of Court of Deputy Commissioner.

XII. The Court of the Deputy Commissioner shall have power to try and determine suits of every description and of any amount, and to hear appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the first, second, and third grades.

Jurisdiction of Court of Commissioner.

XIII. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the fourth and fifth grades.

Appellate jurisdiction of High Court.

XIV. The High Court shall have power to hear and determine appeals from original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioner, and also applications for a special appeal as provided in the said Code, from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioner of the Division.

Time for presenting appeals.

XV. The memorandum of appeal, prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within the said period; that is to say, thirty days, if the appeal lie to the Deputy Commissioner; six weeks, if the appeal lie to the Commissioner of the Division; and ninety days, if the appeal lie to the High Court. The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made. Memoranda of special appeal shall be presented in the High Court within the period hereinbefore fixed for appeals.

Extraordinary original jurisdiction.

XVI. The High Court shall have power to remove and to try and determine as a Court of extraordinary original jurisdiction, any suit being or falling within the jurisdiction of any Court in the said Division, when the High Court shall think proper to do so, either on the agreement of the parties to that effect or for purposes of justice, the reasons for so doing being recorded on the proceedings of the High Court.

High Court to superintend and to frame rules of practice for subordinate Courts.

XVII. The High Court shall have superintendence over all Courts in the said Division, and shall have power to call for returns, and to make and issue general rules for regulating the practice and proceedings of such Courts, and also to prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries, and accounts to be kept by the officers, and also to settle tables of fees to be allowed to the attornies, vakeels, and all clerks and officers of such Courts, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be used and observed in the said Courts: Provided that such general rules, and forms and tables be not inconsistent with the provisions of any law in force, and shall before they are issued have received the sanction of the Lieutenant-Governor.

Lieutenant-Governor may invest any one with powers of Commissioner or of Deputy Commissioner.

XVIII. Whenever the state of the public business requires it, the Lieutenant-Governor shall have power to invest any person with the powers of a Commissioner or of a Deputy Commissioner in any part of the Jhansi Division.

Court in which suit shall be instituted.

XIX. Every suit shall be instituted in the Court of the lowest grade competent to try it: provided that no suit cognizable by a Court of Small Causes shall be

heard or determined in any other Court having any jurisdiction within the local limits of the jurisdication of such Court of Small Causes.

Appeal to lie from all decisions, except when expressly prohibited.

XX. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Deputy Commissioner may distribute business among subordinate Courts.

XXI. The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

Transfer of suits from subordinate Court to Commissioner's or Deputy Commissioner's Court.

XXII. The Commissioner of the Division or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself or refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same. The Comissioner of the Division may also withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him, and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

High Court may transfer suit from one subordinate Court to another.

XXIII. The High Court may order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to such High Court, not being a Court of Small Causes, shall be transferred to any other such subordinate Court, competent in respect of the value or amount of the subject-matter of the suit or appeal to try the same.

Suits for immoveable property situate in different districts.

XXIV. If the suit be for any immoveable property situate within the limits of different District Courts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property is situate; but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the suit; and the Commissioner, after hearing the objections, (if any) of the defendant, may give such authority. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immoveable property situate in districts subject to different Commissioners.

XXV. If the District Courts within the limits of whose jurisdiction any immoveable property sued for is situate are subordinate to different Commissioners, application for authority to proceed with the suit shall be made to the Commissioner of the Division to whom the District Court in which the suit is brought is subordinate, and such Commissioner may, after hearing the objections (if any) of the defendant, give authority to proceed with the suit.

Commencement of Act.

XXVI. This Act shall come into operation on such day as the said Government shall declare by notification in the official Gazette.

ACT No. XX. OF 1867.

1. Power to permit trans-shipment without payment of duty.
2. Levy of trans-shipment fee.
3. This Act to be read as part of Act VI. of 1863.
4. This Act not to apply to Salt and Opium.

An Act to authorize the trans-shipment, without payment of duty, of goods imported into Calcutta, Madras, and Bombay by steamers.

Preamble.

Whereas in trans-shipping goods imported by steamers into Calcutta, Madras, and Bombay and destined for other ports, delay arises from the necessity of paying duty and obtaining drawback in respect of such goods, or of entering into a bond as required by Section 110 of Act VI. of 1863 *(to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India)* if duty is not paid: And whereas it is expedient to diminish such delay so far as may be practicable; It is hereby enacted as follows:

Power to permit trans-shipment without payment of duty.

I. Subject to such rules as may from time to time be prescribed by the local Government, the chief officer of Customs of the port of Calcutta, Madras, or Bombay, as the case may be, may, on application of any person interested as owner, agent, consignee or otherwise in any goods imported by the steamers into Calcutta, Madras, or Bombay, as the case may be, grant leave to trans-ship the same without payment of duty at the port of trans-shipment and without any security or bond for the due arrival and entry of the goods at the port of destination, when such goods have been specially and distinctly manifested or declared at the time of import as for trans-shipment to any other British Indian or foreign port.

Levy of trans-shipment fee.

II. A trans-shipment fee on each bale or package of goods so trans-shipped shall be levied at such rates and under such regulations as may from time to time be prescribed by the local Government. All such rates and regulations shall be published in the local Gazette.

This Act to be read as part of Act VI. of 1863.

III. This Act shall be read as part of the said Act VI of 1863, and shall not be construed as in any respect limiting the power of the Customs Officers to levy duty or to require such bonds and other securities as authorized by the said Act.

This Act not to apply to Salt and Opium.

IV. Nothing in this Act shall apply to the trans-shipment of Salt or Opium.

ACT No. XXII. OF 1867.

1. Repeal of Bengal Regulation XIV. of 1807, Section 11, Clause 5.
2 Interpretation Clause. "Sarái." "Keeper of a Sarai" 'Magistrate of the District." "Local Government"
3. Notice of this Act to be given to keepers of Sarais.
4 Register of Sarais to be kept.
5 Lodgers, &c, not be received in Sarais until registered.
6. Magistrate may refuse to register keeper not producing certificate of character.
7. Duties of keepers of Sarais
8. Power to order reports from keepers of Sárais.
9 Power to shut up, secure, clear, and clean deserted Sarais.
10. Taking down or repairing ruinous Sarais.
11. Sale of materials of ruinous Sárais
12. Penalty for permitting Sarais to be filthy or overgrown. Proviso.
13 Power for local Government to make regulations.
14 Penalty for infringing Act or Regulations
15 Conviction for third offence to disqualify persons from keeping Sarais.
16 Nothing in Act to apply to certain Sarais
17. Extent of Act. Power to Governor-General in Council to extend this Act.
18. Short Title.

An Act for the regulation of public Saráis and Puraos.

Preamble.

Whereas it is expedient to provide for the regulation of public Saráis and Puraos; It is hereby enacted as follows:

Repeal of Bengal Regulation XIV. of 1807, Section 11, Clause 5.

I. Regulation XIV. of 1807 of the Government of the Presidency of Fort William in Bengal, Section 11, Clause 5, is hereby repealed so far as it applies to public Saráis in the territories to which this Act may from time to time apply.

Interpretation Clause.

II. In this Act—unless there be something repugnant in the subject or context—

"Sarai."

"Sarái" means any building used for the shelter and accommodation of travellers, and includes, in any case in which only part of a building is used as a Sarái, the part so used of such building. It also includes a Purao so far as the provisions of this Act are applicable thereto:

"Keeper of a Sarai."

"Keeper of a Sarái" includes the owner and any person having or acting in the care or management thereof:

"Magistrate of the District."

"Magistrate of the District" means the chief officer charged with the executive administration of a district in criminal matters, whatever may be his designation:

Number.

"Local Government."

Words in the singular include the plural, and *vice versâ*; And in any place in which this Act shall operate, "Local Government" shall mean the person administering Executive Government in such place, and shall include a Chief Commissioner and the Commissioner in Sind.

Notice of this Act to be given to keepers of Saráis.

III. Within six months after this Act shall come into operation, the Magistrate of the District in which any Sarái to which this Act shall apply may be situate shall, and from time to time thereafter such Magistrate may, give to the keeper of every such Sarái notice in writing of this Act, by leaving such notice for the keeper at the Sarái; and shall by such notice require the keeper to register the Sarái as by this Act provided. Such notice may be in the form in the Schedule to this Act annexed or to the like effect.

Registers of Saráis to be kept.

IV. The Magistrate of the District shall keep a register in which shall be entered by such Magistrate or such other person as he shall appoint in this behalf, the names and residences of the keepers of all Saráis within his jurisdiction, and the situation of every such Sarái. No charge shall be made for making any such entry.

Lodgers, &c, not to be received in Saráis until registered.

V. After one month after the giving of such notice to register as by this Act provided, the keeper of any Sarái or any other person shall not receive any lodger or allow any person, cattle, sheep, elephant, camel or other animal, or any vehicle to halt or be placed in such Sarái until the same and the name and residence of the keeper thereof shall have been registered as by this Act provided.

Magistrate may refuse to register keeper not producing certificate of character.

VI. The Magistrate of the District may, if he shall think fit, refuse to register as the keeper of a Sarái a person who does not produce a certificate of character in such form and signed by such persons as the local Government shall from time to time direct.

Duties of keepers of Saráis.

VII. The keeper of a Sarái shall be bound—

(1.)—When any person in such Sarái is ill of any infectious or contagious disease, or dies of such disease, to give immediate notice thereof to the nearest Police Station:

(2.)—At all times when required by any Magistrate or any other person duly anthorized by the Magistrate of the District in this behalf, to give him free access to the Sarái and allow him to inspect the same or any part thereof:

(3.)—To thoroughly cleanse the rooms and verandahs, and drains of the Sarái, and the wells, tanks or other sources from which water is obtained for the persons or animals using it, to the satisfaction of and so often as shall be required by the Magistrate of the District, or such person as he shall appoint in this behalf:

(4.)—To remove all noxious vegetation on or near the Sarái, and all trees and branches of trees capable of affording to thieves means of entering or leaving the Sarái:

(5.)—To keep the gates, walls, fences, roofs and drains of the Sarái in repair:

(6.)—To provide such number of watchmen as may, in the opinion of the Magistrate of the District, subject to such rules as the local Government may prescribe in this behalf, be necessary for the safety and protection of persons and animals or vehicles lodging in, halting at, or placed in the Sarái; and

(7.)—To exhibit a list of charges for the use of the Sarái at such place and in such form and languages as the Magistrate of the District shall from time to time direct.

Power to order reports from keepers of Saráis.

VIII. The keeper of a Sarái shall from time to time, if required so to do by an order of the Magistrate of the District served upon him, report, either orally or in writing as may be directed by the Magistrate, to such Magistrate or to such person as the Magistrate shall appoint, every person who resorted to such Sarái during the preceding day or night. If written reports are required for any space of time exceeding a single day or night, schedules shall be furnished by the Magistrate of the District to the keeper. The keeper shall from time to time fill up the said schedules with the information so required, and transmit them to the said Magistrate, in such manner and at such intervals as may from time to time be ordered by him.

Power to shut up, secure, clear, and clean deserted Saráis.

IX. If any Sarái by reason of abandonment or of disputed ownership shall remain untenanted, and thereby become a resort of idle and disorderly persons, or become in a filthy or unwholesome state, or be complained of by any two or more of the neighbours as a nuisance, the Magistrate of the District, after due enquiry, may cause notice in writing to be given to the owner, or to the person claiming to be the owner, if he be known and resident within the District, and may also cause such notice to be put on some conspicuous part of the Sarái, requiring the persons concerned therein, whoever they may be, to secure, enclose, clean or clear the same; and if such requisition shall not be complied with within eight days, the Magistrate of the District may cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the Sarái, and shall be recover-

able like penalties under this Act, or, in case of abandonment or disputed ownership of the Sarái, by the sale of any material found therein.

Taking down or repairing ruinous Saráis.

X. If a Sarái or any part thereof be deemed by the Magistrate of the District to be in a ruinous state, or likely to fall, or in any way dangerous to the persons or animals lodging in or halting at the Sarái, he shall give notice in writing to the keeper of the Sarái requiring him forthwith to take down, repair or secure (as the case may be) the Sarái or such part thereof as the case may require. If the keeper do not begin to take down, repair or secure the Sarái, or such part as aforesaid, within three days after such notice, and complete such work with due diligence, the Magistrate shall cause all or so much of the Sarái as he shall think necessary to be taken down, repaired or otherwise secured. All the expenses so incurred by the Magistrate shall be paid by the keeper of the Sarái, and shall be recoverable from him as hereinafter mentioned.

Sale of materials of ruinous Saráis.

XI. If any such Sarái or any part thereof be taken down by virtue of the powers aforesaid, the Magistrate of the District may sell the materials thereof, or so much of the same as shall be taken down under the provisions of the last preceding Section, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore the overplus (if any) arising from such sale to the owner of such Sarái on demand, and may recover the deficiency (if any) as if the amount thereof were a penalty under this Act.

Penalty for permitting Saráis to be filthy or overgrown.

XII. Whoever, being the keeper of any Sarái, suffers the same to be in a filthy and unwholesome state, or overgrown with vegetation, or after the expiration of two days from the time of his receiving notice in writing from the Magistrate of the District to cleanse or clear the same, or after he shall have been convicted of suffering the same to be in such state or so overgrown as aforesaid, shall allow the same to continue in such state, or so overgrown, shall be liable to the penalties provided in Section 14 of this Act: Provided that the Magistrate of the District may, in lieu of enforcing such daily penalty, enter on and cleanse or clear the said Sarái, and the expense incurred by the Magistrate in respect thereof shall be paid to him by the keeper, and shall be recoverable as by this Act provided in the case of penalties.

Proviso.

Power for local Government to make regulations.

XIII. The local Government may from time to time make regulations for the better attainment of the objects of this Act, provided that such rules be not inconsistent with this Act or with any other law for the time being in force, and may from time to time repeal, alter and add to the same. All regulations made under this Act, and all repeals thereof and alterations and additions thereto, shall be published in the local official Gazette.

Penalty for infringing Act or regulations.

XIV. If the keeper of a Sarái offend against any of the provisions of this Act or any of the regulations made in pursuance of this Act, he shall for every such offence be liable on conviction before any Magistrate to a penalty not exceeding 20 Rupees, and to a further penalty not exceeding one rupee a day for every day during which the offence continues: Provided, always, that this Act shall not exempt any person

from any penalty or other liability to which he may be subject irrespective of this Act. All penalties imposed under this Act may be recovered in the same manner as fines may be recovered under Section 61 of the Code of Criminal Procedure.

Conviction for third offence to disqualify persons from keeping Saráis.

XV. Where a keeper of a Sarái is convicted of a third offence under this Act, he shall not afterwards act as keeper of a Sarái without the license in writing of the Magistrate of the District, who may either withhold such license or grant the same on such terms and conditions as he may think fit.

Nothing in Act to apply to certain Saráis.

XVI. No part of this Act, except Section 8, shall apply to any Sarái which may be under the direct management of the local Government or of any Municipal Committee.

Extent of Act.

XVII. This Act shall in the first instance extend only to the territories under the Government of the Lieutenant-Governor of the North-West Provinces of the Presidency of Fort William in Bengal. But it shall be lawful for the local Government, by notification in the local Gazette, to extend this Act, *mutatis mutandis*, to any other part of the territories which are or may be vested in Her Majesty or Her Successors by the Statute 21 and 22 Vict., chap. 106 (*An Act for the better Government of India*), except the Towns of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Power to Governor-General in Council to extend this Act.

Short Title.

XVIII. This Act may be called "The Sarais' Act, 1867."

SCHEDULE.

Form of Notice.

Take notice that on the ——— day of ———1867, an Act called "The Saráís' Act, 1867," was passed, and that before the ———day of ———18———you, being the keeper of a Sarái [*or* Purao] within [*here state the district over which the jurisdiction of the Magistrate giving the notice extends*] must have your Sarái [*or* Purao] registered, and that the register is to be kept at [*here state where the register is to be kept*], and that if you do not have your Sarái [*or* Purao] so registered, you will be liable to a penalty not exceeding 20 Rupees, and to a further penalty not exceeding one rupee a day for every day during which the offence continues, and that on your applying to [*here give the name and address of the person to keep the register*] he will register your Sarái [*or* Purao] free of all charge to you.

Dated the———day of———18 .

Act No. XXIII. of 1867.

1. Lieutenant-Governor empowered to extend this Act to any part of the Punjab.
2. Fanatics murdering or attempting to murder liable to death or transportation for life, and forfeiture of property.
3. Offences under this Act to be offences under Penal Code.
4. Forfeiture of property and disposal of bodies of fanatics killed in committing outrages punishable under this Act.
5. Trial before Commissioner.
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7. What the judgment is to specify.
8. Disposal of bodies of criminals sentenced to death.
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10. No appeal from orders or sentences under this Act.
11. Procedure when Commissioner thinks that offender's crime is not contemplated by this Act.
12. Lieutenant Governor's powers as to confinement of persons under this Act.
13. Power of Magistrate as to persons suspected.
14. Exercise of jurisdiction conferred by this Act.
15. Power to withdraw any class of cases from operation of Act.
16. Power to issue circular orders.
17. Expiration of Act.

An Act for the suppression of murderous outrages in certain Districts of the Punjab.

Preamble.

Whereas in certain districts of the Punjab, fanatics have frequently murdered or attempted to murder servants of the Queen and other persons: And whereas the general law of the country is not adequate to supress such offences; It is hereby enacted as follows:

Lieutenant-Governor empowered to extend this Act to any part of the Punjab.

I. It shall be lawful for the Lieutenant-Governor of the Punjab, with the previous consent of the Governor-General of India in Council by a proclamation published in the official Gazette, from time to time to declare any part or parts of the territories under his government to be subject to the operation of all or any of the provisions of this Act, and also, by such proclamation and with such consent as aforesaid, from time to time to withdraw from the operation of such provisions any part or parts of the said territories which he may previously have declared to be subject thereto, and in like manner, as occasion shall require, to subject the same part or parts again to the operation of the same provisions, or of any of them.

Fanatics murdering or attempting to murder liable to death or transportation for life, and forfeiture of property.

II. Any fanatic who shall murder or who shall, within the meaning of the Indian Penal Code, Section 307, attempt to murder any servant of the Queen or other person, shall, on conviction thereof, be punished either with death or with transportation for life, and all his property shall be forfeited to Government.

Offences under this Act to be offences under Penal Code.

III. Every offence made punishable under this Act, shall be deemed an offence within the meaning of the Indian Penal Code.

Forfeiture of property and disposal of bodies of fanatics killed in committing outrages punishable under this Act.

IV. Whenever any fanatic shall be killed in the act of committing any such offence as aforesaid, or, being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the Commissioner, who under the provisions hereinafter contained would have had cognizance of the offence if the offender could have been brought to trial, to proceed to hold an inquest into the circumstances of the death of the offender, and on proof of his having been killed as aforesaid or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government and dispose of his body as such Commissioner shall think fit.

Trial before Commissioner.

V. Subject to the provision contained in Section 14 of this Act, any offence triable under this Act shall be tried by the Commissioner of the Division in which it has been committed; and in respect of all such offences, the Commissioner shall follow the procedure prescribed for a Magistrate by Sections 248 to 255 (both inclusive) of the Code of Criminal Procedure: Provided that, if he shall be of opinion that any witness or evidence is offered for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness or evidence is material, and if the Commissioner be not so satisfied, he shall not be bound to summon the witness or examine the evidence so offered.

Trial to be with aid of Assessors.

VI. Trials under this Act before the Commissioner shall be conducted with the aid of two or more Assessors as Members of the Court. The Commissioner may appoint such persons (other than persons specified in Section 334 of the Code of Criminal Procedure) at such time and in such manner as he may think fit to serve as Assessor, and no person shall be exempt, within the meaning of Section 335 of the same Code, from serving as such Assessors. The provisions of the Code of Criminal Procedure shall, save as aforesaid, apply to Assessors appointed under this Section.

What the judgment is to specify.

VII. When any trial under this Act is concluded, if the accused person be convicted, it shall be sufficient if the Court, in passing judgment and in recording the finding and sentence, shall specify the offence of which he is convicted, and the Court shall immediately issue a warrant to the officer in charge of the Jail in which the prisoner is confined to cause the sentence to be carried into execution, and such sentence shall be carried into execution accordingly. No sentence of death passed under this Act shall require confirmation by any Court.

Disposal of bodies of criminals sentenced to death.

VIII. When any person shall be sentenced to death under this Act, his body shall be disposed of as the Commissioner by whom he was so sentenced shall direct.

Proceedings to be reported to Lieutenant-Governor.

IX. The proceedings in every trial held under this Act shall be reported to the Lieutenant-Governor, without unnecessary delay, by the officer before whom such trial shall have been held.

No appeal from orders or sentences under this Act.

X. Notwithstanding anything contained in the Code of Criminal Procedure or "The Punjab Chief Court Act, 1866" no appeal shall lie from any order or sentence under this Act.

Procedure when Commissioner thinks that offender's crime is not contemplated by this Act.

XI. If any Commissioner in whom jurisdiction is vested by this Act shall be of opinion that the accused person has committed an offence punishable under the Indian Penal Code, but that such offence is not contemplated by the preamble to this Act, the offender shall be dealt with in manner provided in such case by the Code of Criminal Procedure.

Lieutenant-Governor's powers as to confinement of persons under this Act.

XII. The said Lieutenant-Governor shall have, with respect to the confinement of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in the Governor-General of India by any law regarding the confinement of persons charged with or suspected of State offences; and the provisions of any such law shall, *mutatis mutandis*, be applicable to all cases in which the Lieutenant-Governor shall proceed under the authority of this Section.

Power of Magistrate as to persons suspected.

XIII. Any person having the full powers of a Magistrate may cause any person against whom there are in his judgment grounds of proceeding under the last proceding Section, to be apprehended; and after such enquiry as he may think necessary, may detain such person in safe custody until he shall have received the orders of the said Lieutenant-Governor, to whom, in all such cases, he shall report his proceedings without unnecessary delay.

Exercise of jurisdiction conferred by this Act.

XIV. The jurisdiction conferred by this Act on a Commissioner may be exercised, in the case of any offence punishable under this Act, by any person having the full powers of a Magistrate whom the Commissioner to whom he may be subordinate, or the said Lieutenant-Governor, shall, after the commission of such offence, specially invest with such jurisdiction.

Power to withdraw any class of cases from operation of Act.

XV. It shall be lawful for the said Lieutenant-Governor, either on his own motion or at the request of the Chief Court of the Punjab, from time to time to withdraw any class of cases from the operation of this Act.

Power to issue circular orders.

XVI. With the previous consent of the said Lieutenant-Governor, but not otherwise, the said Chief Court may, from time to time, make and issue circular orders for the guidance of officers in cases under this Act: Provided that such orders are consistent with the provisions herein contained. All such orders shall be published in the official Gazette, and shall be obeyed by the officers aforesaid.

Expiration of Act.

XVII. This Act shall expire in ten years from the date of passing it or at such earlier date as the Governor-General of India in Council may order.

THE ADMINISTRATOR GENERAL'S ACT, 1867.

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1. Short Title.
2. Repealed.
3. Interpretation Clause. "Presidency of Bengal." "Presidency of Madras." Presidency of Bombay." "Presidency Town." "Government." "District Judge." "Letters of Administration." "Next-of-kin." "Officer." "Soldier." "Assets." Gender. Number.
4. Designation of the Administrators General in the three Presidencies.
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8. Probates and letters of administration granted by Supreme Courts to Ecclesiastical Registrars to have same effect as if granted to the Administrator General.
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15. Administrator General entitled to letters of administration, unless granted to next-of-kin of deceased. Administrator General entitled in preference to creditor, non-universal legatee, or friend.
16. When administration of estates of persons other than Hindús, Muhammadans, or Buddhists is to be by Administrator General.
17. Upon death of any person leaving assets within local limits, High Court may, on application, if assets are in danger, direct Administrator General to apply for administration. Administration to effects of deceased Hindús, Muhammadans, or Buddhists, not to be granted under this Section, unless required to protect the assets. Costs of unnecessary application.
18. Upon death of any person leaving assets within local limits, High Court may, if property is in danger, enjoin Administrator General to collect and hold the same until right of succession or administration is ascertained. Rate of commission payable in such case.
19. Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain adminstration. Costs of proceedings taken by the Administrator General to be paid out of the estate.
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21. Administrator General in certain cases to secure and distribute the estate and effects of soldiers. Proviso.
22. Administrator-General not precluded from applying for letters of administration in any case within one month after death of deceased.
23. After revocation, letters of administration granted to Administrator General to be deemed as to him to have been voidable only. Exception. Proviso.
24. What payments made or acts done by Administrator General prior to revocation of administration upon production of a Will, shall be deemed valid.
25. In what cases Court may recall Administrator General's administration and grant probate, &c., to executor or next-of-kin Unless a Will is proved, application to revoke such administration must be made within six months without needless delay.
26. Costs of obtaining administration, commission, &c., may, on revocation, be ordered by Court to be paid to the Administrator General out of the assets.
27. Exclusion of creditors who have not proved, from assets with which a dividend is made. After one year from grant of administration, distributions of assets by Administrator General to be allowed against all claims of which he had no notice. Person receiving payments liable to refund. What to be notice of debt or claim.
28. Letters of administration to be granted to Administrator General in virtue of his office. Authority given by such letters.
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34. In what case Administrator General may grant certificate. No certificate to be granted where probate or administration taken out or in respect of money in Government Savings' Bank.
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37. Copy of certificate with receipt annexed when signed by certificate-holder, to be a discharge. Right of executor or administrator against certificate-holder. Right of creditor against assets in hands of certificate-holder.
38. Administrator General not bound to take out administration on account of effects in respect of which he has granted certificate.
39. Fee for certificate.
40. Administrator General to defray expenses of establishment, and all other charges not expressly provided for.
41. Administrator General to keep a separate account for each estate, to be open to inspection on payment of fee.
42. Administrator General to furnish half-yearly Schedules. Schedules to be filed and published.
43. Government to appoint auditors.
44. Auditors to examine Schedule and report to Government.
45. Auditors to have power to summon witnesses and to call for books, &c. Penalty for non-attendance
46. Costs of preparing Schedules, &c., how to be paid.
47. Auditors to report specially to Government if accounts appear not correct.
48. Proceedings upon such report.
49. Costs of reference, &c., how to be defrayed.
50. Commission to be received by Administrators General.
51. Section 50 not to apply to property of officers and soldiers dying on service, which shall come to hands of Administrator General. Administrator General entitled to a commission of only three per cent. on gross amount of such property.
52. What expenses, &c., commission is to cover. How payable. Commission retained to be deemed a distribution.

53. Commission of the Administrator General of Bengal may be raised and again reduced. Commission of the Administrators General of Madras and Bombay may be reduced and again raised. Proviso
54. Commission or agency not to be charged by executor or administrator other than the Administrator General. Bequest in favour of executors not affected.
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60. Mode of proceeding by claimant to recover principal money so transferred.
61. District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General
62. Act not to require administration of estates of soldiers, unless Administrator General authorized by Military Secretary or Committee of Adjustment
63. Indian Succession Act and Indian Companies' Act not to affect Administrator General.
64. Power to appoint a Deputy Administrator General for the North-Western Provinces and the Punjab, Oudh, and the Central Provinces.

An Act to consolidate and amend the law relating to the office and duties of Administrator General.

Preamble. Whereas it is expedient to consolidate and amend the law relating to the office and duties of Administrator General; It is hereby enacted as follows:

PART I.

Preliminary.

Short Title. I. This Act may be called "The Administrator General's Act, 1867."

II. *Repealed by the Repealing Act XIV.*, 1870.

Interpretation Clause. III. In this Act—unless there be something repugnant in the subject or context—

"Presidency of Bengal." "Presidency of Bengal" includes the territories which are or shall for the time being be respectively under the Governments of the Lieutenant-Governors of Bengal, the North-Western Provinces, and the Punjab, and under the administrations of the Chief Commissioners of Oudh, the Central Provinces, and British Burmah:

"Presidency of Madras." "Presidency of Madras" includes the territories which are or shall for the time being be under the Government of the Governor of Fort St. George in Council, Coorg, and also, so far as regards British subjects, Mysore * *and the Hyderabad Assigned Districts*:

"Presidency of Bombay." "Presidency of Bombay" means the territories which are or shall for the time being be under the Government of the Governor of Bombay in Council: †

"Presidency Town." "Presidency Town" means the Town of Calcutta, Madras, or Bombay, as the case may be:

"Government." "Government" means the Governor-General of India in Council, so far as the Act relates to the Presidency of Bengal; the person for the time being administering the Executive Government of the Presidency of Fort St. George, so far as the Act relates to the Presidency of Madras; and the person for the time being administering the Executive Government of the Presidency of Bombay, so far as the Act relates to that Presidency:

* By Act XIX., 1869, Section 1, the words are to be excluded from this definition.

† By Act XIX., 1869, Section 1, the words "and also, so far as regards British subjects, the Hyderabad Assigned Districts" are to be added to this definition.

"District Judge" means the Judge of a principal civil Court of original jurisdiction:

"District Judge."

"Letters of Administration" shall include any letters of administration whether general or limited, or with a Will annexed, and letters *ad colligenda bona:*

"Letters of Administration."

"Next-of-kin" includes a widower or widow of a deceased person, or any other person who, by law and according to the practice of the Courts, would be entitled to letters of administration in preference to a creditor or legatee of the deceased:

"Next-of-kin."

"Officer" means a commissioned officer of Her Majesty's Army, or of Her Majesty's Indian Army:

"Officer."

"Soldier" means a soldier of Her Majesty's Army, or European soldier of Her Majesty's Indian Army, including a warrant and a non-commissioned officer:

"Soldier."

"Assets" includes immoveable as well as moveable property:

"Assets."

Words in the masculine gender include the feminine; and words in the singular number include the plural; and *vice versâ.*

Gender. Number.

PART II.

Of the Office of Administrator General.

IV. In each of the Presidencies of Bengal, Madras, and Bombay, there shall be an Administrator General. The said Administrators General shall be called respectively the Administrator General of Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

Designation of the Administrators General in the three Presidencies.

V. Such offices shall be appointed and may be suspended or removed by the authorities hereinafter mentioned respectively, that is to say:—

Appointment, suspension, and removal of Administrators General.

The Administrator General of Bengal, by the Governor-General of India in Council; the Administrator General of Madras, by the Government of Fort St. George; and the Administrator General of Bombay, by the Government of Bombay.

VI. Any person hereafter appointed to the office of Administrator General or officiating Administrator General of any of the said Presidencies, shall be a member of the Bar of England or Ireland, or of the Faculty of Advocates in Scotland, but any person now holding such office shall continue to hold the same, subject to the provisions contained in the other Section of this Act.

Qualification of future and continuance of existing incumbents.

VII. The Administrator General shall not be deemed in that capacity to be an officer of any High Court.

Administrator General not to be deemed an officer of High Court.

VIII. All probates and letters of administration granted by any of the late Supreme Courts of Judicature to the Ecclesiastical Registrar of such Court in virtue of his office, shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act, as if they had been granted to the Administrator General.

Probates and letters of administration granted by Supreme Courts to Ecclesiastical Registrars to have same effect as if granted to the Administrator General.

No Administrator General to be Ecclesiastical Registrar.

Administrator General not to hold any other office without sanction of Government.

Proviso.

IX. No person now holding the office of Administrator General, or hereafter to be appointed to such office in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar; nor, without the express sanction of Government, any other office together with that of Administrator General: Provided that the Administrator General of the Presidency may be appointed Official Trustee under Act XVII. of 1864 *(to constitute an office of Official Trustee)*: Provided, also, that the Administrator General of Bengal may hold the office of Receiver of the High Court of Judicature at Fort William.

Penalty for trading.

Exception.

X. It is hereby declared to be an offence punishable in manner provided by Section 168 of the Indian Penal Code, for any Administrator General to trade or traffic for his own benefit, or for the benefit of any other person, unless so far as shall appear to him to be expedient for the due management of the estates which shall come into his charge under the provisions of this Act, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively; but this exception is not be construed to alter the civil liabilities of the Administrator General as trustee of such estates.

Security to be given by Administrator General.

Substitution of security or sureties.

XI. Unless the Governor-General of India in Council, or the Government, with the sanction of the Governor-General of India in Council, shall otherwise order, every Administrator General hereafter to be appointed shall give security to the Secretary of State for India for the due execution of his office, for one lakh of rupees by his own bond, and for another lakh of rupees, or for separate sums amounting together to one lakh of rupees by the deposit of Government Securities, or by the joint and several bond or bonds of two or more sureties to be approved by Government, or partly by such deposit and partly by such bond or bonds: Provided that every Administrator General may, with the consent of Government, substitute either of the said two last-mentioned kinds of security for another previously given for such last-mentioned lakh or any part of it; and every Administrator General may, with the consent of Government, and shall from time to time when required by Government so to do, cause fresh sureties to be substituted for any of those previously bound, so far as the security shall relate to the due execution of his office for the time then to come.

No security nor oath to be required by Court from Administrator General.

XII. No Administrator General shall be required by any Court to enter into any administration bond, or to give other security to the Court, on the grant of any letters of administration to him in virtue of his office. No Administrator General shall be required to verify, otherwise than by his signature, any petition presented by him under ths provisions of this Act, and if the facts stated in any such petition are not within the Administrator General's own personal knowledge, the petition may be subscribed and verified by any person competent to make the verification. Whoever makes a statement in any such petition which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Appointment of officiating Administrator General.

XIII. Whenever any person holding the office of Administrator General shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Administrator General, and such person while so officiating, shall be subject to the same conditions and be bound by the same responsibilities as the Administrator General by any law now in force or that may hereafter be enacted, and he shall be deemed to be Administrator General for the time being under this Act, and shall be liable to give security under Section 11 of this Act, in like manner as if he had been appointed Administrator General.

PART III.

Of the Rights, Powers, and Duties of the Administrator General.

(a).—Grants of Letters of Administration and Probate to the Administrator General.

As regards Administrator General, High Court at Presidency town to be deemed a Court of competent jurisdiction within meaning of Sections 187 and 190 of Indian Succession Act.

XIV. So far as regards the Administrator General of any of the Presidencies of Bengal, Madras, and Bombay, the High Court of Judicature at the Presidency town shall be deemed to be a Court of competent jurisdiction within the meaning of Sections 187 and 190 of the Indian Succession Act, 1865, wheresoever within the Presidency the property to be comprised in the probate or letters of administration may be situate.

Administrator General entitled to letters of administration, unless granted to next-of-kin of deceased.

Administrator General entitled in preference to creditor, non-universal legatee, or friend.

XV. Any letters of administration, or letters *ad colligenda bona*, which shall hereafter be granted by the High Court of Judicature at any Presidency town, shall be granted to the Administrator General of the Presidency, unless they shall be granted to the next-of-kin of the deceased. The Administrator General of the Presidency shall be deemed to have a right to letters of administration in preference to that of any person,* merely on the ground of his being a creditor, a legatee other than an universal legatee, or a friend of the deceased.

When administration of estates of persons other than Hindús, Muhammadans, or Buddhists is to be by Administrator General.

XVI. If any person, not being a Hindú, Muhammadans, or Buddhist, or a person exempted under the Indian Succession Act, 1865, Section 332, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall have left assets exceeding at the date of the death or within one year thereafter the value of 1,000 Rupees within any of the said Presidencies, and no person shall, within one month after his death, have applied in such Presidency for probate of a Will, or for any letters of administration of his estate, the Administrator General of the Presidency in which such assets shall be is hereby required, within a reasonable time after he shall have had notice of the death of such person, and of his having left such assets as aforesaid, to take such proceedings as may be necessary to obtain from the High Court of Judicature at the Presidency town,

* See in the matter of the Administration *de bonis non cum testamento annexo* of N. C. Viegas, 1, B. R, p. 103.

letters of administration to the effects of such person, either generally or with a Will annexed, as the case may require. Whenever the Administrator General of the Presidency shall take proceedings under this Section, it shall be sufficient if the petition required by Section 246 of the Indian Succession Act, 1865, shall state the time and place of the deceased's death to the best of the petitioner's knowledge or belief, that the deceased left some property within the Presidency as hereinbefore defined, and the amount or value of assets which are likely to come into the petitioner's hands.

Upon death of any person leaving assets within local limits, High Court may, on application, if assets are in danger, direct Administrator General to apply for administration.

XVII. Whenever any person, whether a Hindú, Muhammadan, or Buddhist, or not, shall have died leaving assets within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at the Presidency town, it shall be lawful for the Court, upon the application of any person interested in such assets, or in the due administration thereof, either as a creditor, legatee, next-of-kin or otherwise, or upon the application of a friend of any minor who may be so interested, or upon the application of the Administrator General, if the applicant shall satisfy the Court that danger is to be apprehended of the misappropriation, deterioration or waste of such assets unless letters of administration of the effects of such person are granted, to make an order, upon such terms as to indemnifying the Administrator General against costs and other expenses as to the Court shall seem fit, directing the Administrator General to apply for letters of administration of the effects of such person: Provided that, in the case of an application being made under this Section for letters of administration to the effects of a deceased Hindú, Muhammadan, or Buddhist, or person exempted as aforesaid, the Court may refuse to grant letters of administration to any person, if it be satisfied that such grant is unnecessary for the protection of the assets, and in such case the said Court shall make such order as to the costs of the application as it shall think just.

Administration to effects of deceased Hindús, Muhammadans, or Buddhists not to be granted under this Section, unless required to protect the assets.

Costs of unnecessary application.

Upon death of any person leaving assets within local limits, High Court may, if property is in danger, enjoin Administrator General to collect and hold the same until right of succession or administration is ascertained.

XVIII. Whenever any person, whether a Hindú, Muhammadan, or Buddhist, or not, shall have died, whether before or after the passing of this Act, leaving assets within the local limits of the ordinary original civil jurisdiction of any of the said High Courts, and such Court shall be satisfied that danger is to be apprehended of the misappropriation, deterioration or waste of such property, before it can be ascertained who may be legally entitled to the succession to such property, or whether the Administrator General is entitled to letters of administration to such deceased person, it shall be lawful for the Court to authorize and enjoin the Administrator General to collect and take possession of such property, and to hold or deposit or invest the same according to the orders and directions of the Court, and in default of any such orders or directions, according to the provisions of this Act so far as the same are applicable to such property; and the Administrator General shall be entitled to a commission of one *per centum* upon the amount of all moveable assets collected or received by him in pursuance of such order, and also

Rate of commission payable in such case.

to reimburse himself for all payments made by him in respect of the assets which a private administrator of such assets might lawfully have made; and in case letters of administration of any such property shall be afterwards granted to the Administrator General, the said commission of one *per centum* shall be deemed a part payment of the commission payable to the Administrator General under the letters of administration. Any order of Court made under the provisions of this Section, shall entitle the Administrator General to collect and to take possession of such property, and, if necessary, to maintain a suit for the recovery thereof.

Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.

XIX. If in the course of proceedings to obtain letters of administration under the provisions of Section 16 or Section 17 of this Act, any executor appointed by a Will of the deceased shall appear according to the practice of the Court and prove the Will and accept the office of executor, or if any person shall appear according to such practice and make out his claim to letters of administration as next-of-kin of the deceased, and shall give such security as shall be required of him by law or by the practice of the Court, the Court shall grant probate of the Will or letters of administration accordingly, and shall award to the Administrator General his costs of the proceedings so taken by him, to be paid out of the estate as part of the testamentary or intestate expenses thereof.

Costs of proceedings taken by the Administrator General to be paid out of the estate.

If no executor or next-of-kin appear or give necessary security, letters of administration to be granted to Administrator General.

XX. If no person shall appear according to the practice of the Court, and entitle himself to probate of a Will, or to a grant of letters of administration as next-of-kin of the deceased, or if the person who shall entitle himself to a grant of administration shall neglect to give such security as shall be required of him by law or according to the practice of the Court, the Court shall grant letters of administration to the Administrator General.

Administrator General in certain cases to secure and distribute the estate and effects of soldiers.

XXI. The Administrator General shall, when duly authorized or required so to do by the Military Secretary to Government, secure and distribute the assets of the estate and effects of any officer, soldier, or other person subject to any Articles of War, in all cases in which such estate and effects do not exceed on the whole 500 Rupees, charging the estate with a commission of three *per centum* only. It shall not be necessary for the Administrator General to take out letters of administration in cases referred to in this Section: but he shall have the same powers with regard to all such assets as he would have had if he had taken out such letters.

Proviso.

Administrator General not precluded from applying for letters of administration in any case within one month after death of deceased.

XXII. Nothing in this Act is intended to preclude the Administrator General from applying to the Court for letters of administration in any case, within the period of one month from the death of the deceased.

After revocation, letters of administration granted to Administrator General to be

XXIII. If any letters of administration which shall be granted to the Administrator General under the provisions of this Act, shall be revoked or recalled, the same shall, so far as regards the Administrator General and all per-

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deemed as to him to have been voidable only.

Exception.

sons acting under his authority in pursuance thereof, be deemed to have been only voidable; except as to any act done by any such Administrator General or other person as aforesaid, after notice of a Will or of any other fact which would render such letters of administration void:

Proviso.

Provided that no notice of a Will or of any other fact which would render any such letters of administration void, shall affect the Administrator General or any person acting under his authority in pursuance of such letters of administration, unless, within the period of one month from the time of giving such notice, proceedings be commenced to prove the Will, or to cause the letters of administration to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

What payments made or acts done by Administrator General prior to revocation of administration upon production of a Will, shall be deemed valid.

XXIV. If any letters of administration which shall be granted under this Act shall be revoked upon the production and proof of a Will, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of administration lawfully granted to him with such Will annexed, shall be deemed valid notwithstanding such revocation.

In what cases Court may recall Administrator General's administration and grant probate, &c., to executor or next-of-kin.

XXV. If an executor or next-of-kin of the deceased, who shall not have been personally served with a citation or had notice thereof in time to appear in pursuance thereof, shall establish to the satisfaction of the Court a claim to probate of a Will or to letters of administration in preference to the Administrator General, any letters of administration which shall be granted by virtue of this Act to the Administrator General may be recalled and revoked, and probate may be granted to such executor, or letters of administration granted to such other person as aforesaid: Provided that no letters of administration which shall be granted to the Administrator General shall be revoked or recalled for the cause aforesaid, except in cases in which a Will or codicil of the deceased shall be proved in the Presidency, unless the application for that purpose shall be made within six months after the grant to the Administrator General, and the Court shall be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application shall be made.

Unless a Will is proved, application to revoke such administration must be made within six months and without needless delay.

Costs of obtaining administration, commission, &c., may, on revocation, be ordered by Court to be paid to the Administrator General out of the assets.

XXVI. If any letters of administration which shall be granted to the Administrator General in pursuance of this Act shall be revoked, the Court may order the costs of obtaining such letters of administration, and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administraror General out of any assets belonging to the estate: Provided that, in any such case, when the deceased has left a Will appointing an executor, and probate of the Will has been

granted by any Court in the Presidency to such executor within three months after the death, or when the widow or next-of-kin has within one month if resident within the Presidency, or within three months if resident beyond the Presidency, obtained from any such Court letters of administration to the estate and effects of the deceased, then and in either of such cases the Administrator General shall (without prejudice to the provisions contained in Sections 17 and 18 of this Act) not be entitled to receive or retain any commission out of any assets belonging to such estate and situate within the jurisdiction of the Court by which probate or administration shall have been granted as last aforesaid.

Exclusion of creditors who have not proved, from assets with which a dividend is made.

XXVII. Whenever the Administrator General shall declare a dividend among such creditors of the deceased as have proved their debts, and shall notify the payment of such dividend by advertisement in the official Gazette, no creditor of the deceased who shall not previously to such declaration and advertisement have proved his debt, shall be entitled to participate as such in the assets wherewith such dividend shall be made. Any payment or delivery of assets to any legatee or to any person entitled in distribution, which shall be made by an Administrator General after the expiration of one year from the grant of the letters of administration under which such payment or delivery shall be made, shall be allowed to the Administrator General as against all creditors and other claimants against the estate, of whose debts or claims he shall not have had notice before making such payment or delivery: Provided that nothing herein contained shall exempt the person to whom such payment or delivery shall be made, from any liability to refund to which he would otherwise be liable: And provided, also, that no notice of any debt or claim shall affect the Administrator General, unless proceedings to enforce the debt or claim be commenced within one month after the giving of such notice, and be prosecuted without unreasonable delay.

After one year from grant of administration, distribution of assets by Administrator General to be allowed against all claims of which he had no notice.

Person receiving payments liable to refund.

What to be notice of debt or claim.

XXVIII. All letters of administration which shall be granted to any Administrator General in virtue of his office shall be granted to him by his name of office, and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator General officially, or which shall be granted to any Administrator General in virtue of his office, shall authorize the Administrator General for the time being of the same Presidency to act as administrator of the estate to which such letters of administration shall relate.

Letters of administration to be granted to Administrator General in virtue of his office.

Authority given by such letters.

XXIX. Every probate which shall be granted to any Administrator General of a Will wherein he shall be named as executor by virtue of his office, shall be granted to him by his name of office, and shall authorize the Administrator General for the time being of the same Presidency to act as executor of the estate to which such probate shall relate.

Grant of probate to Administrator General named as executor by virtue of his office.

XXX. It shall be lawful for any private executor or administra-

Transfer by private executor or administrator of interst under probate or letters of administration.

tor, with the previous consent of the Administrator General of the Presidency in which the property comprised in the probate or letters of administration is situate, by an instrument in writing under his hand, bearing a stamp of ten Rupees and notified in the local Gazette, to transfer all estates, effects and interests vested in him by virtue of such probate or letters to the Administrator General by his name of office: and thereupon the transferor shall be exempt from all liability as such executor or administrator, as the case may be, for any act or omission in respect of the said property after the date of the said transfer; and the Administrator General for the time being shall have the rights and be subject to the liabilities which he would have had, and to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by his name of office at the date aforesaid. Nothing herein contained shall be taken to exempt any such transferor from liability for acts and omissions in respect of the said property prior to the transfer.

Vesting of estates, &c., in successor of Administrator General.

XXXI. All estates, effects and interests which, at the time of the death, resignation or removal from office of any Administrator General, shall be vested in him by virtue of such letters of administration, probates or transfers as aforesaid, shall, upon every such death, resignation or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto. All books, papers and documents kept by such Administrator General by virtue of his office or as such executor or transferee as aforesaid, shall be transferred to and vested in his successor in office.

(b.)—Suits by and against the Administrator General.

Administrator General to sue and be sued in his representative capacity by his name of office.

XXXII. All suits or other proceedings which shall be commenced by or against any Administrator General in his representative character, may be brought by or against him by his name of office, and no suit or other proceedings already commenced or which shall be commenced by or against any person as Administrator General, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal from office of any such Administrator General, but the same may, by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued by or against his successor immediately upon his appointment, in the same manner as if no such death, resignation or removal had occurred: Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the suit against him.

Suit not to abate by death, &c.

Proviso as to costs.

Creditors' suits against Administrator General.

XXXIII. If any suit shall be brought by a creditor against any Administrator General in his representative character, the plaintiff shall be liable to pay the costs of the suit and shall not be entitled to have the decree (if any) in such suit enforced, unless upon proof by affidavit or otherwise that not less than one calendar month previous to the institution of the suit he had applied in writing to the Administrator

General, stating the amount and other particulars of the claim, and supporting the same by such evidence as, under the circumstances of the case, the Administrator General was reasonably entitled to require, and that the Administrator General had refused or neglected to register the claim according to the practice of his office. If in any such suit judgment is pronounced in favour of the plaintiff, he shall, nevertheless, be only entitled to payment out of the assets of the deceased *pari passu* with the other creditors.

(c.)—Grant of Certificates by the Administrator General.

In what case Administrator General may grant certificate.

XXXIV. Whenever any person, not being a Hindú, Muhammadan, or Buddhist, or exempted under the Indian Succession Act, 1865, Section 332, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, whether before or after the passing of this Act, and whether testate or intestate, and shall have left moveable assets within any of the said Presidencies, and the Administrator General of such Presidency shall be satisfied that such assets do not exceed in the whole 1,000 Rupees in value, he may, after the lapse of one month from the death if he shall think fit, or before the lapse of the said month if he shall be requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the effects of the deceased, grant to any person claiming otherwise than as a creditor to be entitled to a share of such effects, certificates under his hand entitling the claimant to receive the sums or securities for money therein severally mentioned, belonging to the effects of the deceased, to the value of any sum not exceeding in the whole 1,000 Rupees: Provided that no certificate shall be granted under this Section where probate of the deceased's Will or letters of administration of his effects has or have been granted, or in respect of any sum of money deposited in a Government Savings' Bank.

No certificate to be granted where probate or administration taken out, or in respect of money in Government Savings' Bank.

Grant of certificate to creditors.

XXXV. If in cases falling within Section 34 of this Act, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased shall, within three months, obtain a certificate from the Administrator General under the same Section, or letters of administration to the estate and effects of the deceased, the Administrator General may administer the estate without letters of administration, in the same manner as if such letters of administration had been granted to him; and if he shall neglect or refuse to take upon himself the administration of the estate and effects, he shall, upon the application of a creditor and upon being satisfied of his title, grant a certificate in the same manner as if such creditor were entitled to a share of the effects of the deceased, and such certificate shall have the same effect as a certificate granted under the provisions of the same Section, and shall be subject to all the provisions of this Act which are applicable to such certificate: Provided that the Administrator General may, before granting such certificate, if he think fit, require the creditor to give reasonable security for the due administration of the estate and effects of the deceased.

Proviso

Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.

XXXVI. The Administrator General shall not be bound to grant any such certificate, unless he shall be satisfied of the title of the claimant and of the value of the effects of the deceased, either by the oath or solemn affirmation of the claimant (which oath or affirmation the Administrator General is hereby authorized to administer or take), or by such other evidence as he shall require.

Copy of certificate with receipt annexed, when signed by certificate-holder, to be a discharge.

Right of executor or administrator against certificate-holder.

XXXVII. A copy of any such certificate with a receipt annexed shall, when such copy and receipt are signed by the person to whom the certificate has been granted, be a full discharge for payment or delivery to him of the money or security for money therein mentioned, to the person paying or delivering the same: but nothing in this Act shall preclude any executor or administrator of the deceased from recovering, from the person receiving the same, the amount remaining in his hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration. And any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

Right of creditor against assets in hands of certificate-holder.

Administrator General not bound to take out administration on account of effects in respect of which he has granted certificate.

XXXVIII. The Administrator General shall not be bound to take out letters of administration to the estate of any deceased person on account of the effects in respect of which he shall grant any such certificate, but he may do so if he shall discover any fraud or misrepresentation made to him, or that the value of the estate exceeded 1,000 Rupees.

Fee for certificate.

XXXIX. For every such certificate the Administrator General shall be entitled to charge a fee calculated after the rate of three Rupees in the hundred on the amount mentioned in the certificate.

(d.)—Expenses of the Administrator General's Establishment.

Administrator General to defray expenses of establishment, and all other charges not expressly provided for.

XL. The Administrator General shall defray all the expenses of the establishment necessary for his office, and all other charges to which the said office shall be subject, except those for which express provision is made by this Act.

(e.)—Accounts and Schedules.

Administrator General to keep a separate account for each estate, to be open to inspection on payment of fee.

XLI. The Administrator General of each of the said Presidencies shall enter into books to be kept by him for that purpose, separate and distinct accounts of each estate, and of all such sums of money, bonds and other securities for money, goods, effects and things as shall come to his hands, or to the hands of any person employed by him or in trust for him under this Act; and likewise of all payments made by him on account of such estate, and of all debts due by or to the same, specifying the dates of such receipts and

payments respectively. Such books shall be kept in the Administrator General's office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same, at office hours, paying only such reasonable fee as hath been or shall be from time to time fixed by the Government and published in the official Gazette of the Presidency to which the same may relate.

Administrator General to furnish half-yearly Schedules.

XLII. The Administrator General of each of the said Presidencies shall twice in every year, that is to say, on or before the 1st day of April, and on or before the 1st day of October, or on such other days as the Government shall, by any rules or orders to be published as aforesaid, direct, exhibit and deliver, in the High Court at Calcutta, Madras, or Bombay, as the case may be, a true Schedule showing the gross amount of all sums of money received or paid by him on account of each estate in his charge, and the balances, during the period of six months ending severally on the 31st day of December and 30th day of June next before the day of delivering such Schedule, and a true list of all bonds or other securities received on account of each of the said estates during the same period; and also a true Schedule of all administrations whereof the final balances shall have been paid over to the persons entitled to the same, during the same period, specifying the amount of such balances and the persons to whom paid. Such Schedules shall be filed of record in such High Court, and shall, within fourteen days afterwards, be published in the Official Gazette of the Presidency by the said Administrator General; and copies thereof in triplicate shall be delivered by such Administrator General to the Government, and shall be sent by such Government to the Secretary of State for India, in order that such Secretary may, if he think fit so to do, order the same to be deposited at the India Office for public inspection, and may cause notices to be published in the *London Gazette* and other leading newspapers, that such Schedules are open to inspection there, or may make such other orders respecting the same as he may think fit.

Schedules to be filed and published.

PART IV.

Of the Audit of the Administrator General's Accounts.

Government to appoint auditors.

XLIII. The Government shall from time to time appoint auditors to examine the accounts of the Administrator General at the times of the delivery of the said Schedules, and also at any other time when the Government shall think fit.

Auditors to examine Schedule, and report to Government.

XLIV. The auditors shall examine the Schedules and accounts, and report to the Government whether they contain a full and true account of every thing which ought to be inserted therein, and whether the books which by this Act are, or which by any such general rules and orders as hereinafter mentioned shall be, directed to be kept by the Administrator General, have been duly and regularly kept, and whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to have power to summon witnesses, and to call for books, &c.

XLV. Every auditor shall have power to summon as well the Administrator General as any other person whose presence he may think necessary, to attend him from time to time; and to examine the Administrator General or other person if he shall think fit, on oath or solemn affirmation to be by him administered; and to call for all books, papers, vouchers and documents, which shall appear to him to be necessary for the purposes of the said reference. If the Administrator General or other person when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher or document so required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the auditors shall certify such neglect or refusal in writing to the High Court at the Presidency town; and every person so refusing or neglecting shall thereupon be punishable in like manner as if such refusal or neglect had been in contempt of the said High Court.

Penalty for non-attendance.

Costs of preparing Schedules, &c., how to be paid.

XLVI. The costs and expenses of preparing and publishing the said Schedules and copies thereof, and of every such reference and examination as aforesaid, shall be defrayed by all the estates to which such Schedules or accounts shall relate. Such costs and expenses, and the portion thereof to be contributed by each of the said estates, shall be ascertained and settled by the auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator General.

Auditors to report specially to Government if accounts appear not correct.

XLVII. If upon any such reference and examination the auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein contained or which ought to be therein contained, or that the assets have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Administrator General has failed to comply with the provisions and directions of this Act or of any such rules and orders, they shall report accordingly to the Government.

Proceedings upon such report.

XLVIII. The Government may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his executor or administrator in the High Court in the Presidency town, by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter; and the said Advocate General shall have power to exhibit interrogatories to the said Administrator General, executor or administrator (hereinafter called the defendant), who shall be bound to answer the same as fully as if a commission had been issued under the provisions of the Code of Civil Procedure for his examination upon the said interrogatories. The Court shall have power upon any such petition to compel the attendance in Court of the defendant and any witnesses who may be thought necessary, and to examine them orally or otherwise

as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

Costs of reference, &c., how to be defrayed.

XLIX. The costs, including those of the Advocate General and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or out of the estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant, the same shall be repaid to the estates by which they shall have been in the first instance contributed, and the Court may, if it shall think fit, order the defendant to receive his costs out of the said estates.

PART V.

Of the Commission of the Administrator General.

Commission to be received by Administrators General.

L. The Administrator General of each of the said Presidencies, under any letters of administration which shall be granted to him in his official character, or under any probate which shall be granted to him of a Will wherein he shall be named as executor by virtue of his office; or under any probates or letters of administration which are or shall be vested in him by Section 8 or Section 30 of this Act, shall be entitled to receive a commission at the following rates respectively, *viz.*:—

The Administrator General of Bengal at the rate of three *per centum*, and the Administrators General of Madras and Bombay respectively at the rate of five *per centum*, upon the amount or value of the assets which they shall respectively collect and distribute in due course of administration.

Section 50 not to apply to property of officers and soldiers dying on service, which shall come to hands of Administrator General.

LI. The last preceding Section shall not apply to cases in which the property of an officer or soldier dying on service shall come to the hands of the Administrator General of any of the said Presidencies, under the ninth or the twelfth Section of the Statute called "The Regimental Debts' Act, 1863;" and such Administrator General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of the Administrator General's Act, 1865, if preferential charges as defined by the fourth Section of the said Statute have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges, as the case may be.

Administrator General entitled to a commission of only three per cent. on gross amount of such property.

What expenses, &c., commission is to cover.

LII. The Administrator General shall be entitled to reimburse himself for any payments made by him in respect of any estate in his charge, which a private administrator of such estate might have lawfully made; but save as aforesaid, the commission to which the Administrator General of each of the said three Presidencies shall be entitled is intended to cover, not merely the expense and trouble of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration. It is therefore enacted that one-half of such commission shall be payable to and retained

How payable.

by such Administrator General upon the collection of the assets, and the other half thereof shall be payable to the Administrator General who shall distribute any assets in the due course of administration, and may be retained by him upon such distribution. The amount of the commission lawfully retained by a an Administrator General upon the distribution of assets, shall be deemed a distribution in the due course of administration within the meaning of this Act.

Commission retained to be deemed a distribution.

LIII. The Governor-General of India in Council may from time to time order the rate of commission hereinbefore authorized to be received by the Administrator General of Bengal to be raised to any rate not exceeding five *per centum* upon the amount or value of the assets which he shall collect and distribute in due course of administration, and again to be reduced. The Governments of the Presidencies of Fort St. George and Bombay respectively may, with the sanction of the Governor-General of India in Council, from time to time order the aforesaid rate of commission hereby authorized to be received by the Administrators General of Madras and Bombay respectively to be reduced and again to be raised: Provided that the commission so to be received shall not at any time exceed five *per centum* of the assets collected, and that no person now holding the office of Administrator General of Bengal, Madras, or Bombay shall, by any such order, be deprived of the right to receive and retain, for his own use, a commission at the rate of three *per centum* in respect of all assets collected and actually administered by him.

Commission of the Administrator General of Bengal may be raised and again reduced.

Commission of the Administrators General of Madras and Bombay may be reduced and again raised.

Proviso.

LIV. No person other than the Administrator General acting officially shall receive or retain any commission or agency charges for anything done as executor or administrator under any probate or letters of administration, or letters *ad colligenda bona*, which have been granted by the Supreme Court or High Court of Judicature at Fort William in Bengal since the passing of Act VII. of 1849 *(for the appointment of an Administrator General in Bengal)*, or by either of the Supreme or High Courts of Judicature at Madras and Bombay since the passing of Act II. of 1850 *(to amend and extend to Madras and Bombay Act VII. of* 1849), or which have been or shall be granted by any Court of competent jurisdiction within the meaning of Sections 187 and 199 of the Indian Succession Act, 1865, but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor, or by way of commission or otherwise.

Commision or agency not to be charged by executor or administrator other than the Administrator General.

Bequest in favour of executors not affected.

PART VI.

Miscellaneous.

LV. The Government shall have power from time to time to make and alter any general rules and orders consistent with the provisions of this Act, for the safe custody of the assets and securities which shall

Government may make and alter rules and orders consistent with this Act—

come to the hands or possession of the Administrator General, and for the remittance to the India Office of all sums of money which shall be payable or belong to persons resident in Europe, or in other cases where such remittances shall be required, and generally for the guidance and government of the Administrator General in the discharge of his duties; and may by such rules and orders amongst other things direct what books, accounts or statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to the estates to be administered by such Administrator General shall be kept and invested or deposited pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made. Unless any such rules shall be made and published, the rules now in force in each of the said Presidencies, so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published under this Act.

For custody of assets. For remittance of money.

For guidance of Administrator General.

Proviso as to rules now in force.

LVI. Such orders shall be published in the *Gazette of India*, the *Fort St. George Gazette*, or the Bombay Government *Gazette*, as the case may be, and it shall be the duty of the several Administrators General to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

Publication of orders, &c.

LVII. Any order which shall be made under this Act by any Court shall have the same effect, and be executed in the same manner, as a decree.

Orders of the Court to have same effect, and to be executed in same manner, as a decree.

LVIII. Whoever, having been sworn or having taken solemn affirmation under this Act, shall, upon any examination authorized by this Act, make a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Penalty for false evidence.

LIX. All assets in the official charge of the Administrator General of any of the said Presidencies, and which now appear or shall hereafter appear from the official books and accounts of the Ecclesiastical Registrar and of the Administrator General of any of those Presidencies, or from the official books and accounts of any of those officers, to have been in official custody for a period of fifteen years or upwards without any claim thereto having been made and allowed, shall be transferred and paid to the Controller General of Accounts or to the Accountant General to the Government of Fort St. George or Bombay, as the case may be, and be carried to the account and credit of the Government of India for the the general purposes of Government; and the receipt of the said Controller General or Accountant General, as the case may be, shall be a full indemnity and discharge to the said Administrator General for any such transfer or payment: Provided that this Act shall not authorize the transfer or payment of any such proceeds as aforesaid, pending any suit already instituted or which shall be hereafter instituted in respect thereof.

Assets unclaimed for fifteen years to be transferred to Government.

Proviso.

Mode of proceeding by claimant to recover principal money so transferred.

* LX. If any claim shall be hereafter made to any part of the securities, monies or proceeds which shall be carried to the account or credit of the Government of India under the provisions of this Act, and if such claim shall be established to the satisfaction of the Controller General or the Accountant General to the Government of Fort St. George or Bombay, as the case may be, the Government of India shall pay to the claimant the amount of the principal so carried to the credit and account of the said Government of India, or so much thereof as shall appear to be due to the claimant. If the claim shall not be established to the satisfaction of the said Controller General or Accountant General, as the case may be, the claimant may apply by petition to the High Court at the Presidency town against the Secretary of State for India, and after taking evidence either orally or on affidavit in a summary way as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the said principal sum as justice shall require, and such order shall be binding on all parties to the suit.

District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.

LXI. Whenever any person, other than a Hindú, Muhammadan, or Buddhist, or a person exempted under the Indian Succesion Act, 1865, Section 332, from the operation of that Act, shall die leaving assets within the limits of the jurisdiction of a District Judge, it shall be the duty of the District Judge to report the circumstance without delay to the Administrator General of the Presidency, retaining the property under his charge, or appointing an officer under the provisions of the Indian Succession Act, 1865, Section 239, to take and keep possession of the same until the Administrator General shall have obtained such letters of administration, or until some other person shall have obtained such letters or a certificate from the Administrator General under the provisions of this Act, when the property shall be delivered over to the person obtaining such letter of administration or certificate, or, in the event of a Will being discovered, to the person who may obtain probate of the Will.

Act not to require administration of estates of soldiers, unless Administrator General authorized by Military Secretary or Committee of Adjustment.

LXII. Nothing in this Act is intended to require the Administrator General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier or other person subject to any Articles of War, unless when the Administrator General shall be duly authorized or required so to do by the Military Secretary to Government, or by a Committee of Adjustment or other officers or persons acting under any law for the time being in force relating to the payment of regimental debts; nor is anything in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of regimental debts, and the distribution of the effects of officers and soldiers dying in the service of Her Majesty in India, or of any Articles of War.

LXIII. Nothing contained in the Indian Succession Act, 1865,

* The High Courts in the Presidency Towns have been empowered, by Act V. of 1870, to deal with the costs of petitions under this Section.

Indian Succession Act and Indian Companies' Act not to affect Administrator General.

or the Indian Companies' Act, 1866, shall be taken to supersede or affect the rights, duties and privileges of the Administrators General and Officiating Administrators General of Bengal, Madras, and Bombay respectively.

Power to appoint a Deputy Administrator General for the North-Western Provinces and the Punjab, Oudh and the Central Provinces.

LXIV. It shall be lawful for the Governor-General of India in Council to appoint a Deputy Administrator General for all or any of the territories which are or shall for the time being be respectively under the governments of the said Lieutenant-Governors of the North-Western Provinces and the Punjab, and under the administrations of the Chief Commissioners of Oudh and the Central Provinces; and the provisions contained in this Act as to the Administrator General of Bengal, shall apply to any Deputy Administrator General so appointed, save that in such case this Act shall be construed in the North-Western Provinces, Oudh and Central Provinces as if the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in Bengal and, in the Punjab, as if the Chief Court of the Punjab, were substituted for the High Court of Judicature at Fort William.

SCHEDULE.

Repealed by the Repealing Act XIV., 1870.

ACT No. XXV. OF 1867.*

1. Interpretation Clause. "Book." "British India." "Magistrate." Number. Gender. "Local Government."
2. Repealed.
3. Every printed book or paper to bear name of printer and publisher.
4. Keeper of printing presses to make declarations.
5. Rules as to publication of printed periodicals containing public news.
6. Authentication and deposit of declaration. Inspection and copies of declaration.
7. Office copy of declaration to be *primâ facie* evidence.
8. New declaration by persons who have signed a declaration and subsequently ceased to be printers or publishers.
9. Three copies printed after this Act comes into force, and of all subsequent editions, to be delivered to Government within a month.
10. Receipt and payment for copies.
11. Disposal of the three copies.
12. Penalty for printing contrary to rule in Section 3.
13. Penalty for keeping press without making declaration required by Section 4.
14. Punishment for making false statement.
15. Penalty for printing or publishing periodicals without conforming to rules.
16. Penalty for non-delivery of books.
17. Mode of recovering fines.
18. Registration of memoranda of books.
19. Publication of memoranda registered.
20. Power to make rules.
21. Power to exclude any class of books from operation of Act.
22. Continuance of Act.
23. Repealed.

An Act for the regulation of Printing-presses, and Newspapers, for the preservation of copies of books printed in British India, and for the registration of such books.

Preamble.

Whereas it is expedient to provide for the regulation of printing-presses and of periodicals containing news, for the preservation of three copies of every book printed

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* In force in the Hyderabad Assigned Districts.—See *Gazette of India*, 17th August, 1867, No. 1384, p. 1195; and in the Province of Mysore—see Order No. 176, *Gazette of India*, 14th September, 1867, p. 1284.

or lithographed in British India, and for the registration of such books; It is hereby enacted as follows:

PART I.

Preliminary.

Interpretation Clause.

I. In this Act—unless there shall be something repugnant in the subject or context—

"Book."

"Book" includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan separately printed or lithographed:

"British India."

"British India" means the territories which are or shall be vested in Her Majesty or Her Successors by the Statute 21 and 22 Vict., chap. 106 *(An Act for the better Government of India)* other than the Settlement of Prince of Wales' Island, Singapore, and Malacca:

"Magistrate."

"Magistrate" means any person exercising the full powers of a Magistrate, and includes a Magistrate of Police and a Justice of the Peace:

Number. Gender.

Words in the singular include the plural, and *vice versâ;* words denoting the masculine gender include females:

"Local Government."

And in every part of British India to which this Act shall extend, "Local Government" shall mean the person authorized by law to administer Executive Government in such part, and includes a Chief Commissioner.

II. *Repealed by the Repealing Act XIV.*, 1870.

PART II.

Of Printing-presses and Newspapers.

Every printed book or paper to bear name of printer and publisher.

III. Every book or paper printed within British India, shall have printed legibly on it the name of the printer and the place of printing, and (if the book or paper be published) of the publisher, and the place of publication.

Keeper of printing-presses to make declarations.

IV. No person shall, within British India, keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before the Magistrate within whose local jurisdiction such press may be:—

"I, *A B*, declare, that I have a press for printing at———." And this last blank shall be filled up with a true and precise description of the place where such press may be situate.

Rules as to publication of printed periodicals containing public news.

V. No printed periodical work, containing public news or comments on public news, shall be published in British India, except in comformity with the rules hereinafter laid down:—

(1.)—The printer and the publisher of every such periodical work shall appear before the Magistrate within whose local jurisdiction such work shall be published, and shall make and subscribe, in duplicate, the following declaration:—

"I, *A B*, declare, that I am the the printer [*or* publisher, *or* printer and publisher] of the periodical work entitled——and printed [*or* published, *or* printed and published, *as the case mag be*] at——." And the last blank in this form of declaration shall be filled up with a true and precise account of the premises where the printing or publication is conducted:

(2.)—As often as the place of printing or publication is changed, a new declaration shall be necessary:

(3.)—As often as the printer or the publisher who shall have made such declaration as is aforesaid shall leave British India, a new declaration from a printer or publisher resident within the said territories shall be necessary.

Authentication and deposit of declaration.

VI. Each of the two originals of every declaration so made and subscribed as is aforesaid, shall be authenticated by the signature and official seal of the Magistrate before whom the said declaration shall have been made. One of the said originals shall be deposited among the records of the office of the Magistrate, and the other shall be deposited among the records of the High Court of Judicature, or other Court within the local limits of whose ordinary original civil jurisdiction, the said declaration shall have been made. The officer in charge of each original shall allow any person to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of two rupees.

Inspection and copies of declaration.

Office copy of declaration to be primâ facie evidence.

VII. In any legal proceeding whatever, as well civil as criminal, the production of a copy of such declaration as is aforesaid, attested by the seal of some Court empowered by this Act to have the custody of such declaration, shall be held (unless the contrary be proved) to be sufficient evidence, as against the person whose name shall be subscribed to such declaration, that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be) of every portion of every periodical work whereof the title shall correspond with the title of the periodical work mentioned in the declaration.

New declaration by persons who have signed a declaration and subsequently ceased to be printers or publishers.

VIII. Provided, always, that any person who may have subscribed any such declaration as is aforesaid, and who may subsequently cease to be the printer or publisher of the periodical work mentioned in such declaration, may appear before any Magistrate, and make and subscribe, in duplicate, the following declaration:—

"I, *A B*, declare, that I have ceased to be the printer [*or* publisher, *or* printer and publisher] of the priodical work entitled———."

Each original of the latter declaration shall be authenticated by the signature and seal of the Magistrate before whom the said latter declaration shall have been made, and one original of the said latter declaration shall be filed along with each original of the former declaration. The officer in charge of each original of the latter declaration shall allow any person applying to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said latter declaration, attested by the seal of the Court having custody of the original, on payment of a fee of two rupees. In all trials in which a copy, attested as is aforesaid, of the former declaration shall have been

put in evidence, it shall be lawful to put in evidence a copy, attested as is aforesaid, of the latter declaration, and the former declaration shall not be taken to be evidence that the declarant was, at any period subsequent to the date of the latter declaration, printer or publisher of the periodical work therein mentioned.

PART III.

Delivery of Books.

Three copies of books printed after this Act comes into force and of all subsequent editions, to be delivered to Government within a month.

IX. Three printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be produced, and also of any second or subsequent edition which shall be so produced with any additions or alterations, whether the same shall be in letter-press or in the maps, prints or other engravings belonging thereto, and whether the first edition of such book shall have been produced before or after this Act shall come into force, shall, within one calendar month after the day in which any such book shall first be delivered out of the press, and notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer, bound, sewed or stitched together, and upon the best paper on which the same shall be printed or lithographed, at such place and to such officer as the local Government shall, by notification in the official Gazette, from time to time, direct. The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings, finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid. Nothing in the former part of this Section shall apply to any periodical work published in conformity with the rules laid down in Section 5 of this Act.

Receipt and payment for copies.

X. Such officer shall thereupon give a receipt in writing for the copies so received, and, if the book is for sale to the public, shall, on the publication thereof, pay the publisher for the same copies at the rate at which the book shall be *bonâ fide* sold for cash to the public.

Disposal of the three copies.

XI. One of such copies shall be transmitted to the Secretary of State for India, another copy shall be disposed of as the Governor-General of India in Council shall from time to time, by general or special order, direct, and the remaining copy shall, after a memorandum containing the particulars hereinafter mentioned respecting the book shall have been registered as hereinafter provided, be deposited in such public library, or be otherwise disposed of, as the local Government shall from time to time determine.

PART IV.

Penalties.

Penalty for printing contrary to rule in Section 3.

XII. Whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in Section 3 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding 5,000 Rupees, or by simple imprisonment for a term not exceeding two years, or by both.

Penalty for keeping press without making declaration required by Section 4.

XIII. Whoever shall keep in his possession any such press as aforesaid, without making such declaration as is required by Section 4 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding 5,000 Rupees, or by simple imprisonment for a term not exceeding two years, or by both.

Punishment for making false statement.

XIV. Any person who shall, in making any declaration under the authority of this Act, make a statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall, on conviction before a Magistrate, be punished by fine not exceeding 5,000 Rupees, and imprisonment for a term not exceeding two years.

Penalty for printing or publishing periodicals without conforming to rules.

XV. Whoever shall print or publish any such periodical work as is hereinbefore described, without conforming to the rules hereinbefore laid down, or whoever shall print or publish, or shall cause to the printed or published, any such periodical work, knowing that the said rules have not been observed with respect to that work, shall, on conviction before a Magistrate, be punished with fine not exceeding 5,000 Rupees, or imprisonment for a term not exceeding two years, or both.

Penalty for non-delivery of books.

XVI. If any printer of any such book as is referred to in Section 9 of this Act, or of any second or subsequent edition of any such book, shall neglect to deliver three copies of the same pursuant to this Act, he shall for every such default forfeit, besides the value of the copies which he ought to have delivered, a sum not exceeding 50 Rupees, to be recovered by the said officer on conviction before a person exercisimg any of the powers of a Magistrate. If any publisher or other person employing any such printer shall neglect to supply him in manner aforesaid with the maps, prints or engravings, finished and coloured as aforesaid, which may be necessary to enable him to comply with the provisions of the same Section, such publisher or other person shall, for every such default, forfeit, beside the value of the said maps, prints or engravings which he ought to have supplied, a sum not exceeding the said amount, and such sum shall be recovered in manner last aforesaid.

Mode of recovering fines.

XVII. All pecuniary penalties imposed under this Act may be recovered, if for offences committed outside the local limits of the Towns of Calcutta, Madras, and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act, for regulating the Police of such towns in force for the time being. All such penalties shall be disposed of as the local Government shall from time to time direct.

PART V.

Registration of Books.

Registration of memoranda of books.

XVIII. There shall be kept at such office, and by such officer as the local Government shall appoint in this behalf, a book to be called a Catalogue of Books printed in British India, wherein shall be registered a memorandum of every book which shall have been delivered pursuant to Section 9 of this Act. Such memorandum shall (so far as may be practicable) contain the following particulars, (that is to say):—

(1.)—The title of the book and the contents of the title-page, with a translation into English of such title and contents, when the same are not in the English language:

(2.)—The language in which the book is written:

(3.)—The name of author, translator, or editor of the book or any part thereof:

(4.)—The subject:

(5.)—The place of printing and the place of publication:

(6.)—The name or firm of the printer and the name or firm of the publisher:

(7.)—The date of issue from the press or of the publication:

(8.)—The number of sheets, leaves, or pages:

(9.)—The size:

(10.)—The first, second or other number of the edition:

(11.)—The number of copies of which the edition consists:

(12.)—Whether the book is printed or lithographed:

(13.)—The price at which the book is sold to the public; and

(14.)—The name and residence of the proprietor of the copyright or of any portion of such copyright.

Such memorandum shall be made and registered in the case of each book as soon as practicable after the delivery of the copies thereof in manner aforesaid. Every registration under this Section shall, upon payment of the sum of two rupees to the officer keeping the said Catalogue, be deemed to be an entry in the Book of Registry kept under Act XX. of 1847 *(for the encouragement of learning in the territories subject to the Government of the East India Company, by defining and providing for the enforcement of the right called copyright therein)*; and the provisions contained in that Act as to the said Book of Registry shall apply, *mutatis mutandis*, to the said Catalogue.

Publication of memoranda registered.

XIX. The memoranda registered during each quarter in the said Catalogue shall be published in the local Gazette, as soon as may be after the end of such quarter, and a copy of the memoranda so published shall be sent to the said Secretary of State, and to the Secretary to the Government of India in the Home Department respectively.

PART VI.

Miscellaneous.

Power to make rules.

XX. The local Government shall have power to make such rules as may be necessary or desirable for carrying out the objects of this Act, and from time to time to repeal, alter and add to such rules. All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local Gazette.

Power to exclude any class of books from operation of Act.

* XXI. The Governor-General of India in Council may, by notification in the *Gazette of India*, exclude any class of books from the operation of the whole or any part or parts of this Act.

Continuance of Act.

XXII. Part III, and Section 16, and Part V of this Act shall remain in force until the Governor-General of India in Council shall declare to the contrary, by notification in the *Gazette of India.*

XXIII. *Repealed by the Repealing Act XIV.*, 1870.

Act No. XXVI. of 1867.

The whole of this Act, except the words printed below, has been repealed by Act VII., 1870, *Section* 2, *Schedule* 3.

No Advocate of any High Court shall be required to file or present a Mukhtárnáma or Wakálatnáma or any other document empowering him to act.

Act No. XXVII. of 1867.

An Act to empower Deputy Commissioners in the Central Provinces, the Punjab, Oudh, and the Jhansi Division to distribute the business in subordinate Courts.

Preamble.

Whereas it is expedient to enable Deputy Commissioners in the Central Provinces, the Punjab, Oudh, and the Jhansi Division to direct the business in the Courts subordinate to them, respectively, to be distributed among such Courts in such way as the said Deputy Commissioners shall respectively think fit; It is hereby enacted as follows:

Deputy Commissioners empowered to distribute business in Courts subordinate to them.

I. Nothwithstanding anything contained in Act VIII. of 1859 (*for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*), Act XIV. of 1865 (*to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces*), Act XIX. of 1865 (*to define the jurisdiction of the Courts of Judicature of the Punjab and its dependencies*), or Act XVIII. of 1867 (*to define the jurisdiction of the Courts of Civil Judicature in the Jhansi Division*), every Deputy Commissioner in Oudh, the Central Provinces, the Punjab and its dependencies, and the Jhansi Division, may direct the business in the Courts subordinate to him, whether or not they hold their sittings in the same place, to be distributed among such Courts in such way as he shall think fit.

Nothing in Act to apply to Small Cause Courts.

II. Nothing in this Act shall apply to Courts of Small Causes.

This Act to be read with Act XIV. and XIX. of 1865 and XVIII. of 1867.

III. This Act shall in the Central Provinces be read with, and taken as part of, the said Act XIV. of 1865; in the Punjab and its dependencies, as part of the said Act XIX. of 1865, and in the Jhansi Division, as part of the said Act XVIII. of 1867.

* All books, maps, sketches, charts, and papers printed or published under orders of Government or for official purposes, are exempted from the provisions of this Act by G. O. No. 1294.—See *Gazette of India*, 14th March, 1868, p. 374.

ACT No. XXVIII. OF 1867.*

An Act to remove doubts as to the legality of certain sentences passed by tribunals, called Petty Sessions Courts, in the North-Western Provinces.

Preamble.

Whereas certain Magistrates in the North-Western Provinces of the Presidency of Fort William in Bengal have been used to sit together in certain places in the said Provinces as a Court of Petty Sessions and to pass sentences in that capacity: And whereas doubts have been raised as to the legality of such proceedings and sentences, and it is expedient to remove such doubts; It is hereby enacted as follows:

Validity given to process, &c., signed by Magistrates in Petty Sessions.

I. When two or more persons authorized to exercise all or any of the powers of a Magistrate sit together for the despatch of business in any place in the said Provinces, any summons, warrant or process or other proceeding, and any order, judgment, finding or sentence, signed by any two or more of them, shall be as valid to all intents and purposes as if it were solely signed, when the powers of one or more of them are higher than the powers of the others or other of them, by such one of them as has, or by one of such of them as have, been invested under Section 23 of the Code of Criminal Procedure with the highest of such powers, or, when their powers are equal, by any one of them.

Sentences heretofore passed by Magistrates in Petty Sessions, to be valid.

II. All sentences heretofore passed by any Magistrates sitting together in any such place as aforesaid, shall be deemed to be as valid as if this Act had then been passed.

High Court may frame rules.

† III. It shall be lawful for the High Court of Judicature for the said Provinces to frame rules consistent with this Act and with the Code of Criminal Procedure, for the conduct of business transacted by Magistrates sitting together in manner aforesaid, and from time to time to repeal, alter and add to such rules. All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local Gazette.

Act may be extended.

IV. It shall be lawful for any local Government, other than the Government of the North-Western Provinces, to extend, *mutatis mutandis*, the provisions of this Act to all or any part of the territories under its Government.

ACT No. XXX. OF 1867.

An Act to amend Act XIX. of 1861 *(to provide for a Government Paper Currency.)*

Preamble.

Whereas under Section 8 of Act XIX. of 1861 *(to provide for a Government Paper Currency)*, the promissory notes of the Government of India issued under that Act are payable only at the office or offices, or agencies of issue of the city

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* Extended to the Central Provinces by G. O. 261—see *Gazette of India*, 15th February, 1868, p. 278; and to the Province of Oudh by G. O. No. 978, in *Gazette of India*, 20th June, 1868, p 979.

† These powers are to be exercised in the Central Provinces by the Judicial Commissioner—see G. O. 261 in *Gazette of India*, 15th February, 1868, p. 278.

or town from which they are severally issued, and at the Presidency town of the Presidency within which such city or town is situated: And whereas it is expedient to empower the Governor-General of India in Council to declare that, for the purposes of the said Act, any such city or town, other than a Presidency town, shall be deemed to be situated within such Presidency as he shall from time to time declare by notification in the *Gazette of India*; It is hereby enacted as follows:

Power to transfer, for purposes of Currency Act, any town from one Presidency to another.

I. It shall be lawful for the Governor-General of India in Council from time to time to declare, by notification in the *Gazette of India*, that any city or town (other than a Presidency town) from which promissory notes of the Government of India are or shall be issued under the said Act, shall, for the purposes of such Act, be deemed to be situated within such Presidency as shall be specified in that behalf in the said notification; and thereupon such city or town, shall, for the purposes of the same Act, be deemed to be situate within the Presidency so specified.

This Act to be read with Act XIX. of 1861.

II. This Act shall be read with, and taken as part of, the said Act XIX. of 1861.

Act No. XXXI. of 1867.

An Act to render penal certain offences committed by servants of Railway Companies.

Preamble.

Whereas it is expedient to extend certain provisions of the Indian Penal Code relating to public servants to persons in the employment of Railway Companies; It is hereby enacted as follows:

Interpretation Clause.

I. In this Act "Railway Company" means the proprietors for the time being of every railway or tramway situate in the territories vested in Her Majesty or Her Successors under the Statute 21 and 22 Vict., chap. 106 (*An Act for the better Government of India*), or (so far only as regards British subjects within the dominions hereinafter mentioned) situate in the dominions of Princes and States in the East Indies in alliance with Her Majesty or Her Successors, and the lessees, representatives, and assigns of such proprietors.

Railway officers and servants to be "public servants" within meaning of Penal Code.

II. Every officer and servant of a Railway Company shall be deemed a "public servant" within the meaning of Sections 161, 162, 163, 164, and 165 of the Indian Penal Code.

"Government" to include a Railway Company.

III. In the definition of legal remuneration contained in the said Section 161, the word "Government" shall, for the purposes of this Act, be deemed to include a Railway Company.

Short Title.

IV. This Act shall be called "The Railway Servants' Act, 1867.

ACT No. XXXII. OF 1867.

An Act to enable the Governor-General of India in Council to delegate to a Chief Commissioner any power conferred on a local Government by an Act of the Governor-General of India in Council.

Preamble.

Whereas it is expedient to enable the Governor-General of India in Council to delegate to any of the Chief Commissioners of Oudh, the Central Provinces, and British Burmah, any power conferred on the Governor-General in Council as the local Government of the territories under the administration of such Commissioner by any Act of the said Governor-General in Council; It is hereby enacted as follows:

Governor-General in Council empowered to delegate to Chief Commissioners powers given to local Government by Act of Governor General in Council.

I. It shall be lawful for the Governor-General of India in Council by a notification published in the *Gazette of India*, to delegate* to the Chief Commissioner of Oudh, the Central Provinces, or British Burmah, as the case may be, all or any of the powers heretofore or hereafter conferred by any Act of the Governor-General of India in Council on the Governor-General of India in Council as the local Government of the territories under the administration of such Chief Commissioner; and all acts done by the Chief Commissioner, to whom any such power shall have been delegated as aforesaid, in exercise of the same power, shall be as valid as if they had been done by the said Governor-General in Council.

Short Title.

II. This Act may be called "The Chief Commissioners' Powers' Act."

ACT No. XXXIII. OF 1867.

An Act to amend Act No. XXXI of 1861.

Preamble.

Whereas it is expedient to amend Act XXXI. of 1861 *(to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof;)* It is hereby enacted as follows:

* The powers conferred on a local Government by Sections 23, 38, 49, 51, 390, 394, 395, 396, and 397 of Act XXV., 1861, have been delegated to the Chief Commissioner of Coorg by G. O. No. 1671, in *Gazette of India*, 13th November, 1869, p. 421; and the powers conferred by Act XVIII., 1869, are delegated to the same officer by G. O. No. 1832, in *Gazette of India*, 18th December, 1869, p. 531; and the powers conferred on a local Government by the above-mentioned Sections of Act XXV., 1861, have been delegated to the Chief Commissioner of the Central Provinces by G. O. No. 49, and to the Chief Commissioner of British Burmah by G. O. No. 51, see *Gazette of India*, 11th January, 1868, p. 44.

Under this Section certain powers described in certain Sections of Act XXV., 1861, were delegated to the Chief Commissioner of Oudh by Order No. 3828, see *Gazette of India*, 24th August 1867, p. 1223; and by Order No. 4578, certain other powers described in Sections 6 and 24 of Act XX., 1865, see *Gazette of India*, 21st September, 1867, p. 1338; and by Order No. 5077, the powers of a local Government under the terms of Act V., 1861, were delegated, with the exception of Section 4, to the Chief Commissioners of Oudh, the Central Provinces, and British Burmah, and the Commissioner of Mysore and Coorg, see *Gazette of India*, 5th October, 1867, p. 149. By Order 5787, the powers of a local Government for the administration of Act XXII., 1864, are delegated to the Chief Commissioner of Oudh—see *Gazette of India*, 26th October, 1867, p 1457.

Amendment of Act XXXI. of 1861, Section 6.

I. Section 6 of the said Act shall be read as if for the words "fine of 500 Rupees," the following were substituted: (that is to say), "fine not exceeding 500 Rupees."

ACT No. XXXVI OF 1867.

An Act to correct an error in Act No. XVII. of 1862.

Preamble.

Whereas Act XVII. of 1862 *(An Act to repeal certain Regulations and Acts relating to criminal law and procedure,)* repeals by its Schedule the whole Madras Regulation XI., 1816 *(A Regulation for the establishment of a general system of Police throughout the territories subject to the Government of Fort St. George),* "except Sections 8, 9, 10, 12, 13, 14, and 47: " And whereas the said Section number "12" is an error, and it is expedient to correct the same; It is hereby enacted as follows:

Schedule to Act XVII. of 1862 amended.

I. The Schedule to the said Act shall be read as if for the words and figures hereinbefore cited, the following were substituted: (that is to say), "except Sections 8, 9, 10, 11 Clause 1, 13, 14, 47."

ACT No. XXXVII. OF 1867.

1. Financial Commissioner may prepare and send list of appeals for transfer.
2. Procedure of Judicial Commissioner in cases transferred.
3. Hearing before Financial and Judicial Commissioners sitting together.
4. Provision for difference of opinion.
5. Decree contingent on result of reference to High Court, North-Western Provinces.
6. Referred cases to be heard by three Judges.
7. Appearance of parties on reference.
8. Costs of reference.
9. Decision of points arising in criminal cases before Judicial Commissioner.

An Act for transferring Appeals from the Court of the Financial, to the Court of the Judicial Commissioner of Oudh, and for other purposes.

Preamble.

Whereas it is expedient to enable appeals to be transferred from time to time from the Court of the Financial Commissioner of Oudh to the Court of the Judicial Commissioner of that province: And whereas it is also expedient to provide for the decision of certain questions arising before either of such Commissioners by a Court composed of both of them; It is hereby enacted as follows:

I.—Transfer of Appeals by Financial Commissioner.

Financial Commissioner may prepare and send list of appeals for transfer.

I. Whenever the state of business in the Court of the Financial Commissioner of Oudh is such that he cannot dispose of the same with reasonable despatch, he may cause a list of the appeals, whether regular or special, which he may wish to transfer for decision to the Court of the Judicial Commissioner of Oudh, to be prepared and sent to the Chief Commissioner of Oudh, and such Chief Commissioner may, if he think fit, order all or any of such appeals to be transferred accordingly

Procedure of Judicial Commissioner in cases transferred.

II. In all appeals so transferred, the said Judicial Commissioner shall proceed as if they had been originally presented in his Court; and his orders thereon shall have the same effect to all intents and purposes as if they had been made by the said Financial Commissioner.

II.—Appeals before Financial and Judicial Commissioners.

Hearing before Financial and Judicial Commissioners sitting together.

III. Whenever any appeal, whether regular or special, shall have come before the said Financial Commissioner or the said Judicial Commissioner, if the Commissioner before whom such appeal shall have come desires to obtain the opinion of the other Commissioner on any question of fact or of law arising on such appeal, he may record a memorandum to that effect, and on receipt of a copy of such memorandum, the other Commissioner shall sit, as soon as may be practicable, with the Commissioner recording the memorandum, in the Court of such Commissioner, and assist in disposing of the said question, subject to the provisions hereinafter contained.

Reference to High Court.

Provision for difference of opinion.

IV. In case there shall be a difference of opinion between the two Commissioners, the following course shall be pursued, (that is to say):—

(1.)—If the difference of opinion be on any question of fact in the finding of the lower Court, the finding shall be upheld;

(2.)—If the difference of opinion be on a point of law or of usage having the force of law, the ruling of the lower Court shall be upheld, unless one of the Commissioners shall be of opinion that the point should be referred to the High Court of Judicature of the North-Western Provinces of the Presidency of Bengal, in which case the Commissioners shall state the point as to which they differ, and forward the statement with their respective opinions thereon to such High Court.

Decree contingent on result of reference to High Court, North-Western Provinces.

V. The Commissioners may proceed in the case notwithstanding such reference, and may pass a decree contingent on the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made, until the receipt of such opinion.

Referred cases to be heard by three Judges.

VI. Cases referred under this Act shall be heard by three Judges of the said High Court, and shall be determined according to the opinion of the majority of such Judges.

Appearance of parties on reference.

VII. The parties to such cases may appear, plead and act in the said High Court in person or by an Advocate or Vakil of such High Court; and the High Court, when it shall have heard and considered the case, shall transmit a copy of its opinion, under the seal of the Court and the signature of the proper officer, to the Commissioners making the reference.

Costs of reference.

VIII. Costs, if any, consequent on such reference, shall be costs in the suit.

III.—Points arising in Criminal Cases.

Decision of points arising in Criminal cases before Judicial Commissioner.

IX. Whenever any appeal shall have been presented to the said Judicial Commissioner under the Code of Criminal Procedure;

Or whenever any sentence of death shall have been referred to him for confirmation;

Or whenever any case shall have come before him as a Court of revision;

If he desires to obtain the opinion of the said Financial Commissioner on any question of fact or of law arising on such appeal, reference, or case,

The provisions contained in Sections 3, 4, 5, 6, and 7 of this Act shall, *mutatis mutandis*, apply:

Provided that, if there be a difference of opinion on any question of fact, the case may, but if the difference involve the confirmation, commutation or reversal of a sentence of death or of transportation the case shall, be referred in the manner aforesaid to the said High Court.

ACT No. I. OF 1868.

1. Short Title.
2. Interpretation Clause. Gender. Number. "Person." "Year," and "Month." "Immoveable Property." "Moveable Property." "Her Majesty" "British India." "Government of India," "Local Government.." "High Court." "District Judge." "Magistrate." "Barrister." "Section." "Will," "Oath." "swear," and "affidavit." "Imprisonment." "Son." "Father."
3. Revival of repealed enactments. Commencement of time. Termination of time. Official chiefs and subordinates. Successors. Substitution of functionaries.
4. Duty may be taken *pro rata*.
5. Recovery of fines.
6. Matters done under an enactment before its repeal to be unaffected.
7. Judicial notice to be taken of Acts.
8. Recital to be *primâ facie* evidence of truth of fact recited.

An Act for shortening the language used in Acts of the Governor-General of India in Council and for other purposes.

Preamble.

Whereas it is expedient to shorten the language used in Acts made by the Governor-General of India in Council, and to make certain provisions relating to such Acts; It is hereby enacted as follows:

Short Title.

I. This Act may be cited as "The General Clauses' Act, 1868."

Interpretation Clause.

II. In this Act and in all Acts made by the Governor-General of India in Council after this Act shall have come into operation,—unless there be something repugnant in in the subject or context,—

Gender.

(1.)—Words importing the masculine gender shall be taken to include females;

Number.

(2.)—Words in the singular shall include the plural, and *vice versâ*;

"Person."

(3.)—"Person" shall include any company, or association, or body of individuals whether incorporated or not;

"Year" and "month."

(4.)—"Year" and "Nonth" shall respectively mean a year and month reckoned according to the British calendar;

"Immoveable property."

(5.)—"Immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to any thing attached to the earth;

"Moveable property."

(6.)—"Moveable property" shall mean property of every description, except immoveable property;

"Her Majesty."

(7.)—"Her Majesty" shall include Her heirs and successors to the Crown;

"British India."

(8.)—"British India" shall mean the territories for the time being vested in Her Majesty by the Statute 21 and 22 Vict., chap. 106 (*An Act for the better Government of India*), other than the Settlement of Prince of Wales' Island, Singapore, and Malacca;

(9.)—"Government of India" shall denote the Governor-General of India in Council, or, during the absence of the Governor-General of India from his Council, the President in Council, or the Governor-General of India alone, as regards the powers which may be lawfully exercised by them or him respectively;

"Government of India."

(10.)—"Local Government" shall mean the person authorized by law to administer Executive Government in the part of British India in which the Act containing such expression shall operate, and shall include a Chief Commissioner;

"Local Government."

(11.)—"High Court" shall mean the highest Civil Court of appeal in such part;

"High Court."

(12.)—"District Judge" shall mean the Judge of a principal Civil Court of original jurisdiction; but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;

"District Judge."

(13.)—"Magistrate" shall include all persons exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure;

"Magistrate."

(14.)—"Barrister" shall mean a barrister of England or Ireland, or member of the Faculty of Advocates in Scotland;

"Barrister."

(15.)—"Section" shall denote a Section of the Act in which the word occurs;

"Section."

(16.)—"Will" shall include a codicil and every writing making a voluntary posthumous distribution of property;

"Will."

(17.)—"Oath," "swear," and "affidavit" shall include affirmation, declaration, affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing;

"Oath," "swear," and "affidavit."

(18.)—"Imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code;

"Imprisonment."

(19.)—And in the case of any one whose personal law permits adoption, "son" shall include an adopted son, and "father" and adoptive father.

"Son" "Father."

III. In all Acts made by the Governor-General of India in Council after this Act shall have come into operation—

(1.)—For the purpose of reviving, either wholly or partially, a Statute, Act or Regulation repealed, it shall be necessary expressly to state such purpose;

Revival of repealed enactments.

(2.)—For the purpose of excluding the first in a series of days or any other period of time, it shall be sufficient to use the word "from;"

Commencement of time.

(3.)—For the purpose of including the last in a series of days or any other period of time, it shall be sufficient to use the word "to;"

Termination of time.

(4.)—For the purpose of expressing that a law relative to the chief or superior of an office, shall apply to the deputies or subordinates lawfully executing the duties of such office in the place of their superior, it shall be sufficient to prescribe the duty of the superior;

Official chiefs and subordinates.

Successors.

(5.)—For the purpose of indicating the relation of a law to the successors of any functionaries, or of corporations having perpetual succession, it shall be sufficient to express its relation to the functionaries or corporations; and

Substitution of functionaries.

(6.)—For the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, it shall be sufficient to mention the official title of the officer at present executing such functions, or that of the officer by whom the functions are commonly executed.

Duty may be taken pro rata.

IV. Whenever by any Act or Regulation now in force or hereafter to be in force, any duty of customs or excise or in the nature thereof is leviable on any given quantity, by weight, measure or value, of any goods or merchandize, a like duty shall be leviable according to the same rate on any greater or less quantity.

Recovery of fines.

V. The provisions of Sections 63 to 70, both inclusive, of the Indian Penal Code, and of Section 61 of the Code of Criminal Procedure, shall apply to all fines imposed under the authority of any Act hereafter to be passed, unless such Act shall contain an express provision to the contrary.

Matters done under an enactment before its repeal to be unaffected.

VI. The repeal of any Statute, Act or Regulation, shall not affect anything done or any offence committed, or any fine or penalty incurred, or any proceedings commenced before the repealing Act shall have come into operation.

Judicial notice to be taken of Acts.

VII. All Courts of Justice, whether exercising civil or any other jurisdiction, and all persons having by law or consent of parties authority to receive evidence, shall take judicial notice of all Acts and Regulations heretofore made, or hereafter to be made, by the Governor-General of India in Council, the Governor of Madras in Council, the Governor of Bombay in Council, and the Lieutenant-Governor of Bengal in Council, or by the like authority in other parts of British India, whether the same be of a public or of a private nature.

Recital to be primâ facie evidence of truth of fact recited.

VIII. Any recital contained in any Act of the Governor-General of India in Council heretofore made or hereafter to be made, shall be deemed by all such Courts and persons to be *primâ facie* evidence of the truth of the fact recited.

Act No. II. of 1868.

An Act to alter the rate of duty leviable on Pepper exported from Cochin.

Preamble.

Whereas Act III. of 1861 *(to provide for the collection of duty of customs on Pepper exported by Sea from the British port of Cochin)* provides that a duty of fifteen rupees a candy shall be levied on all pepper exported by sea from the British port of Cochin; and whereas the Indian Custom Duties' Act, 1867, provides that a duty of three per cent. shall be levied on pepper exported from British India; and whereas the Governments of Travancore and Cochin have recently reduced the duty on pepper exported from their ports, from rupees fifteen to rupees nine per candy; and whereas it is

expedient that the duty leviable on pepper so exported from the said port should not exceed the said reduced duty; It is hereby enacted as follows:

Duty leviable on pepper exported by sea from Cochin.

I. In lieu of the duty prescribed by the said Acts or either of them, there shall be levied a duty not exceeding nine rupees a candy on all pepper exported by sea from the said port of Cochin; and the Governor of Fort St. George in Council may from time to time determine the exact rate of duty to be levied under this Act.

Act to be read with Act III. of 1861.

II. This Act shall be read with, and taken as part of, the said Act III. of 1861.

ACT No. III. OF 1868.

An Act to authorize the local Government of the Punjab to invest any person with the powers of an Assistant Commissioner or Tahsildar.

Local Government may invest persons with certain powers.

I. The local Government may, by notification in the official Gazette, invest any person with the powers of an Assistant Commissioner with full powers, or of an Assistant Commissioner with special powers, or of an Assistant Commissioner with ordinary powers, or of a Tahsildar, as described in Act XIX. of 1865, within such local limits as it may think proper, and may from time to time withdraw any of such powers.

The local Government may also by such notification as aforesaid direct that any of the powers conferred under this Act shall be exercised only with reference to such class of suits as may be specified in the notification.

Decision of Court consisting of persons exercising powers under Act.

II. When any of the powers conferred under this Act shall be exercised by three or more persons, sitting together as a Court and each invested with the same powers, the decision of the majority of such persons shall be deemed to be the decision of the Court.

III. *Repealed by the Repealing Act XIV.*, 1870.

Extent of Act.

IV. This Act shall extend only to the territories for the time being under the Government of the Lieutenant-Governor of the Punjab.

ACT No. V. OF 1868.

An Act to enable the Governor of Bombay in Council to delegate to the Commisioner in Sind certain of the powers of a local Government.

Governor of Bombay in Council may delegate to Commissioner in Sind certain powers of local Government.

I. It shall be lawful for the Governor of Bombay in Council, by a notification published in the Bombay *Government Gazette*, to delegate to the Commissioner in Sind all or any of the powers conferred on the said Governor in Council, as the local Government of the Province of Sind, by any of the Bombay Regulations, or by any Act of the Governor-General of India in Council solely applicable to the Presidency of Bombay, or by any Act passed heretofore or hereafter by the Governor of Bombay in Council, or by any of the Acts of the Governor-General of India in Council mentioned in the Schedule to this Act.

Governor of Bombay in Council may, with consent of Governor General in Council, delegate to Commissioner of Sind certain powers of local Government.

II. It shall be lawful for the Governor of Bombay in Council, with the consent of the Governor-General of India in Council, to delegate to the Commissioner in Sind all or any of the powers heretofore or hereafter conferred by any Act of the Governor-General of India in Council, on the Governor of Bombay in Council as the local Government of the Province of Sind.

Validation of acts of Commissioner.

III. All acts done by the Commissioner in Sind under the authority of any power so delegated, shall be as valid as if they had been done by the Governor of Bombay in Council.

SCHEDULE.

Act XXVI. of 1850 (to enable improvements to be made in Towns).

Act VII. of 1854 (for the apprehension within the territories under the Government of the East India Company, of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them).

Act XXV. of 1861 (for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter).

Act VI. of 1863 (to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India).

Act VII. of 1865 (to give effect to Rules for the management and preservation of Government Forests).

THE MUNICIPAL IMPROVEMENTS' (N. W. P.) ACT.

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ACT No. VI. OF 1868.

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An Act to make better provision for the appointment of Municipal Committees in the North-Western Provinces, and for other purposes.

Preamble. Whereas it is expedient to make better provision for the appointment of Municipal Committees in the North-Western Provinces of the Presidency of Fort William, and for the police, conservancy, and local improvements, and for education and for the levying of rates and taxes, in the places to which this Act may be extended; It is hereby enacted as follows:

PART I.

PRELIMINARY.

Short Title. I. This Act may be called "The Municipal Improvements' (North-Western Provinces) Act, 1868."

Interpretation clause.

II. In this Act—unless there be something repugnant in the subject or context—

"Committee."

"Committee" means a Municipal Committee appointed under the provisions of this Act;

"Municipality."

"Municipality" means any town or towns to which this Act may be extended;

"Lieutenant-Governor."

"Lieutenant-Governor" means the Lieutenant-Governor of the said provinces.

Power to extend Act.

III. The Lieutenant-Governor may extend this Act, by notification in the local official Gazette, to any town or towns in the territories under his government.

Power to define limit of places to which Act extends.

IV. For the purposes of this Act, the Lieutenant-Governor may from time to time, by notification in the local official Gazette, define the limits of any town, and may include within the limits of such town any Railway station, village, building or land in the vicinity:

Provided that no cantonment shall, without the previous consent of the Governor-General of India in Council, be deemed to be a town for the purposes of this Act.

The Lieutenant-Governor may from time to time, by notification in the local official Gazette, declare to be united for the purposes of this Act any two or more towns, and may also declare by what name the municipality so formed shall be designated.

Existing Committees to be deemed Committees under this Act.

V. All Municipal Committees hitherto appointed under the orders of the Lieutenant-Governor shall be deemed Committees under this Act, and shall continue in office until a Committee shall have been appointed or elected under Section 6.

Act XXVI. of 1850 *(to enable improvements to be made in Towns)* shall cease to have effect in the towns into which it has been introduced, except as to any act done or liability incurred under it:

Provided that all rules made and taxes imposed under Act XXVI. of 1850, which have been approved by the Lieutenant-Governor shall continue in force and recoverable as if they had been made and imposed under the provisions of this Act.

PART II.

APPOINTMENT OF MUNICIPAL COMMITTEES.

Committees appointed by Lieutenant-Governor or election.

VI. In any municipality to which this Act shall have been extended, the Lieutenant-Governor may appoint or direct to be appointed by election, for such period not exceeding two years as to him may seem fit, any number of the inhabitants of such municipality, to be members of a Committee for carrying out the purposes of this Act.

The persons so appointed shall continue in office for two years or until their successors shall have been appointed, and shall be eligible for re-appointment.

In cases when the Lieutenant-Governor directs the appointment to be by election, he may fix the time and manner of the election and the qualification of the electors, and generally may make such rules as he shall think fit for regulating the election.

Removal of members.

The Lieutenant-Governor may from time to time remove any of the members of the Committee so appointed who shall desire to be discharged or refuse or become incapable to act, or be convicted of an offence punlishable under the Indian Penal Code with imprisonment for a term of not less than six months. The Lieutenant-Governor may also, if he think fit, on the recommendation of the Committee, add to their number, and fill up vacancies occurring among them.

Every member so appointed shall have the same powers and be subject to the same liabilities and vacate his office and be eligible for r-eappointment as if he had been originally appointed a member under the first clause of this Section.

Ex-officio members.

In addition to the members appointed as aforesaid, the Lieutenant-Governor shall have power to appoint, by notification in the official Gazette, *ex-officio* members of the Committee for every place in which they exercise their offices and to which this Act shall have been extended:

Provided that the number of such *ex-officio* members shall not be more than one-third of the total number of the Committee.

Appointment of president and vice president.

VII. The Lieutenant-Governor may also appoint the president and vice-president, or either of them, of any Committee, or sanction the election by any Committee of one of their members as president or as vice-president.

Appointment of Secretary.

The Committee may appoint any one of their members or any other person to be their Secretary.

Notification of appointments.

All appointments made under this Section shall be notified in the local official Gazette.

PART III.

Office and Meetings of Committees.

Committee to have an office.

VIII. The Committee shall have an office, where they shall meet for the transaction of business at least once in every month.

Chairman at meetings.

IX. The president, or in his absence the vice-president, shall take the chair at every meeting of the Committee. In the absence of both the president and vice-president, the members present may elect a chairman for the occasion.

The meetings shall be either general or special.

The president or vice-president may, whenever he thinks fit, and he shall, upon a requisition made in writing by not less than one-fifth in number of the members, convene a meeting.

Notice shall be given of every such meeting, and when the meeting is to be special, at least three days' notice thereof shall be given. Every notice shall state the general nature of the business to be transacted at the meeting proposed to be called.

Quorum.

The quorum necessary for the transaction of business at a general meeting shall be three.

The quorum necessary for the transaction of business at a special meeting shall be one-half of the total number of members at the time of the meeting; and at least two-thirds of such quorum shall consist of non-official members.

Dissolution.

If within one hour from the time appointed for the meeting a quorum is not present, the meeting, if summoned by the president or vice-president, shall be dissolved.

Adjournment.

In any other case it shall stand adjourned to the same day in the next week at the same time and place. And if at such adjourned meeting a quorum is not present, it shall be adjourned *sine die.*

All business may be transacted at a general meeting which this Act does not require to be transacted at a special meeting.

Voting.

Casting vote.

All questions which may come before the Committee at any meetings shall be decided by a majority of votes. Every member shall have one vote. In case of equality of votes, the chairman shall have a casting vote.

Publication of proceedings.

Such decisions shall be recorded in a book kept for the purpose, and shall be published in some local English or vernacular newspaper, or in such other manner as the Lieutenant-Governor may from time to time direct.

Correspondence between Committee and local Government.

X. All correspondence between the Committee and the local Government shall pass through the Commissioner of the Division.

The Commissioner of the Division shall be entitled to make such suggestions for the consideration of the Committee as he may deem fit; and the Committee shall furnish him with any information he may call for connected with the duties imposed upon them by this Act.

PART IV.

Powers of Committees.

Power to make assessments and levy taxes.

XI. The Committee may at a special meeting define the persons or property within the municipality to be taxed for the purposes of this Act and the amount or rate of the taxes to be imposed.

If such taxes receive the sanction of the Lieutenant-Governor, but not otherwise, the Committee may at a special meeting impose them accordingly.

The Committee may, at a special meeting, with the same sanction, cancel or vary any tax so imposed.

Such taxes may be all or any of the following:—

(1).—A tax on houses, buildings and lands according to the annual value thereof, not exceeding seven and a half per cent. of such value:

(2).—A tax on professions and trades:

(3).—Taxes on carriages, horses, mules, elephants, camels, bullocks, and asses:

(4).—Tolls on carriages, carts, and animals entering the limits of the municipality:

(5).—An octroi on articles brought within the said limits for consumption or use therein: Provided that a list of such articles shall have been submitted to and approved by the Lieutenant-Governor: Provided, also, that the Lieutenant-Governor shall have power to exempt from the octroi any such articles intended for consumption or use by any class of persons or animals.

No other species of tax shall be imposed without the previous sanction of the Governor-General of India in Council.

Taxes to be confirmed.

XII. No tax shall be collected until it shall have been confirmed by such persons and in such manner as the Lieutenant-Governor shall appoint.

Rules for confirmation and collection of taxes.

The Lieutenant-Governor may from time to time make rules as to the persons by whom and the manner in which any assessment of taxes under this Act shall be confirmed and for the collection of such taxes.

The Lieutenant-Governor may from time to time repeal, alter or add to such rules.

No rate invalid for defect of form.

XIII. No rate on property made under this Act shall be invalid for defect of form, and it shall be enough, in any such rate on property or any assessment of value for the purpose of making such rate, if the property rated or assessed shall be so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

Rules and Bye-laws.

Power of Committees to make rules.

XIV. Every Committee may at a special meeting make rules consistent with this Act, for regulating the time and place of their meeting, the conduct of their business, the restricting of the amount or objects of expenditure under Section 24, the division of duties among the members of the Committee, the salaries, appointment, suspension and removal of the officers and servants of the Committee, and other similar matter.

Enforcement of rules and regulations.

XV. The Committee may appoint one or more of their number to carry out their resolutions, and to enforce the rules and bye-laws made under the provisions of this Act for the protection of the public health, or they may appoint a special officer for such purposes.

Power to make bye-laws as to nuisances, and registration of births, marriages, and deaths.

XVI. The Committee may at a special meeting make bye-laws for defining, prohibiting and removing nuisances which are not public or common nuisances under the Indian Penal Code, or under Act V. of 1861 *(for the regulation of Police)*, and for the securing of a proper registration of births, marriages, and deaths, and for carrying out all or any of the purposes of this Act.

The Committee may from time to time at a special meeting repeal, alter or add to such bye-laws.

Confirmation of bye-laws.

XVII. No bye-law and no alteration or repeal of, or addition to, a bye-law shall have effect until it shall have been confirmed by the Lieutenant-Governor.

Publication of bye-laws.

All bye-laws made under this Act and all rules made under Section 14, and alterations and repeals of, and additions to, such bye-laws and rules shall be published for such length of time and in such manner as the Lieutenant-Governor shall from time to time direct.

Nuisances.

Power to prohibit repetition or continuance of nuisances.

XVIII. Every Committee may enjoin within the limits of the municipality any person not to repeat or continue a public nuisance. Every such injunction shall be deemed to have been made by a public servant.

Power to remove nuisances.

XIX. Every Committee which the Lieutenant-Governor shall authorize in this behalf may, so long as such authorization continues, exercise the powers of a Magis-

trate of a District as described in Section 308 of the Code of Criminal Procedure for the removal of nuisances, and in the exercise of such powers shall follow the procedure prescribed in Chapter XX. of the same Code.

Purchase and Sale of Land.

Power to buy and sell land for purposes of Act.

XX. Any Committee may at a special meeting, and with the previous sanction of the Lieutenant-Governor, purchase land for the purposes of this Act, and may at a like meeting and with the like sanction sell any portion of such land which is not required for the purposes aforesaid, and convey the same in the names of the president and two of the members of the Committee.

Receipts.

The receipt of the president and any two members of the Committee for any monies paid to them upon any such sale shall effectually discharge the person paying the same therefrom, or from being concerned to see to the application thereof, or being accountable for the non-application or misapplication thereof, and the proceeds of such sale shall be applied for the purposes of this Act.

Controlling Power of the Lieutenant-Governor.

Cancellation and suspension of proceedings of Committee.

XXI. The Lieutenant-Governor may by order cancel, suspend or limit any of the acts, proceedings or rules of any Committee.

Abolition of taxes.

The Lieutenant-Governor may also abolish any tax which shall have been sanctioned under the provisions hereinbefore contained, but not so as to entitle any person to a refund of monies paid in respect of such tax.

PART V.

RIGHTS, DUTIES, AND LIABILITIES OF COMMITTEES.

Municipal Fund.

Municipal Fund.

XXII. All sums received by the Committee of any municipality to which this Act extends, and all fines levied under this Act, and all receipts from property entrusted to and managed by the Committee, shall constitute a fund which shall be called the Municipal Fund of such Municipality, and shall, together with all property which may become vested in such Committee, be under their control, and shall be applied by them as trustees for the purposes of this Act.

Custody and disbursement of Municipal Fund.

XXIII. The funds of every Committee shall be kept in the Government Treasury of the District, or in the Bank (if any) to which the Government Treasury business shall have been made over.

No disbursement of such funds or any part thereof shall be made except under the signature of the president or vice-president and one other member of the Committee.

Duties of Committees.

XXIV. Every Committee, subject to such rules restricting the amount or the objects of expenditure as it shall make at a special meeting, and so far as the Municipal Fund at their disposal will permit, shall, after providing out of such fund for a police establishment in the manner hereinafter mentioned,

keep the public streets, roads, drains, tanks and water-courses of the municipality for which they are appointed, clean and in repair,

and may cause such streets and roads or any of them to be watered and lighted,

and may construct and provide for the management of poor-houses, dispensaries, market-places and other works of general utility,

and generally may do all acts and things necessary for the purposes of conservancy and local improvement.

The Committee may also make provision, by the establishment of new schools or the aiding of already existing schools or otherwise, for the promotion of education in the municipality for which such Committee is appointed.

Contracts.

Every contract made on behalf of any Committee in respect of any sum exceeding 20 Rupees or in respect of any property exceeding 20 Rupees in value, shall be in writing, and shall be signed by the president or vice-president and at least two other members of the Committee, of whom one shall be an *ex-officio* member. Unless so executed, it shall not be binding on the Committee.

Municipal Police.

Provision for Police.

XXV. Every Committee shall provide in the first place from its funds for the maintenance of the police establishment in the municipality.

The municipal police shall be appointed under such Act of the Governor-General in Council as may be applicable to the town, and their number shall be fixed by the Committee in consultation with the Inspector-General of Police, subject to the final decision of the Lieutenant-Governor.

Police to aid in carrying out orders regarding nuisances.

XXVI. Every officer of police in any municipality to which this Act shall have been extended shall have power to take into custody without a warrant any person who, within his view, commits any of the offences mentioned in Section 34 of Act V. of 1861 *(for the regulation of Police)*, and shall be bound to carry out the orders issued by the Committee for the prohibition and prevention of public nuisances, or nuisances defined to be such by any bye-law made under this Act.

Annual Reports.

Annual reports and statements to be submitted.

XXVII. Every Committee shall annually, or oftener if directed by the Lieutenant-Governor to do so, submit statements of their receipts on account of and disbursements from the Municipal Fund, and also reports of all works executed or proceedings taken by them under the authority of this Act.

The Committee shall also submit, at such time and in such form as may be directed by the Lieutenant-Governor, an estimate of their probable receipts for the financial year next following, with proposals for their expenditure.

An abstract of such estimate and proposals shall, on being so submitted, be published in such manner as the Lieutenant-Governor shall from time to time direct.

The Lieutenant-Governor may from time to time make rules consistent with this Act, as to the cost and the class of works which

the Committee may execute, and the Committee shall be legally bound to obey such rules.

Public Highways.

Right of Committee in public highways.

XXVIII. All public highways in any municipality in which this Act is in force, not specially reserved by Government, together with all erections thereon and all materials thereof, shall be vested in and belong to the Committee.

Land required for Public Purposes.

Land required for municipal purposes may be taken up under Act VI. of 1857.

XXIX. When any land within the limits of any municipality to which this Act is extended is required for the construction or improvement of a highway, for the promotion of the healthiness of the neighbourhood, or for any other public purpose, if the Committee cannot agree with the owner for the purchase thereof, the Lieutenant-Governor, on the recommendation of the Committee, may notify in the local official Gazette that such land is required under the provisions of Act VI. of 1857 *(for the acquisition of land for public purposes)*, and on payment by the Committee of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

Suits by and against Committees.

Suits by and against Committees.

XXX. Every Committee shall sue and be sued in the name of their president.

Members not personally liable for contracts made by Committee.

No member of a Committee shall be personally liable for any contract made or expense incurred by or on behalf of the Committee, but the funds from time to time in the hands of the Committee shall be liable for and chargeable with all contracts made in the manner above provided for.

Liability of members for breach of trust.

Every member of a Committee shall be liable for any misapplication of money entrusted to the Committee to which he shall have been a party, or which shall happen through or be facilitated by the neglect of his duty, and he shall be liable to be sued for the same in such Court as the Lieutenant-Governor shall direct as for money due to Government.

Notice previous to suing Committee or their officers.

XXXI. No suit shall be brought against a Committee or any of their officers, or any person acting under their direction, for anything done under this Act until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Committee, or at the place of abode of such person, stating the cause of suit and the name and place of abode of the intending plaintiff.

Unless such notice be proved, the Court shall find for the defendant.

Every such suit shall be commenced within three months next after accrual of the cause of the suit and not afterwards.

If any person to whom any such notice of suit is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

PART VI.

Penalties and Prosecutions and Recovery of Taxes.

Penalty on member or servant of a Committee being interested in contracts made with Committee.

XXXII. No member of a Committee or servant of a Committee shall be interested directly or indirectly in any contract made with the Committee, and if any such person be so interested, he shall thereby become incapable of continuing in office or in employment as such member or servant, and shall be liable to a fine of 500 Rupees:

Provided, always, that no person shall be disqualified from acting as a member or servant of a Committee by being a shareholder in or member of any incorporated or registered Company by reason of any contract entered into between such Company and the Committee.

Penalty for infringement of bye-laws or non-payment of fines.

XXXIII. Whoever infringes any bye-law made and confirmed as directed in this Act, shall be liable to a fine not exceeding 50 Rupees, and in the case of a continuing infringement, to a fine not exceeding five Rupees for every day after notice from the Committee of such infringement.

In default of payment of any fine imposed under this Section, the defaulter shall, in the case of a continuing infringement, be liable to imprisonment for a term not exceeding one month; and in any other case, to imprisonment for a term not exceeding eight days.

Prosecutions.

XXXIV. Prosecutions under this Act for infringement of rules or bye-laws may be instituted before any Magistrate by the Committee or any person authorized by the Committee in this behalf.

Recovery of taxes.

XXXV. All arrears of taxes imposed under this Act may be recovered as if they were fines, in the manner prescribed in Section 61 of the Code of Criminal Procedure.

ACT No. VII. OF 1868.

1. Short Title.
2 Extent of Act. Commencement and continuance of Act.
3. Appeals when to lie.
4. Code of Civil Procedure to apply to appeals.
5. Second regular appeals.
6. Time for presenting appeal.
7. Confirmation of decision of lower Court.
8. Chief Court may remove appeals.
9. Review of judgment.
10. Pending suits.

An Act to amend the law relating to Appeals and Reviews of Judgment in the Punjab.

Preamble.

Whereas it is expedient to amend the law relating to appeals and reviews of judgment in the Courts established in the Punjab; It is hereby enacted as follows:

Short Title.

I. This Act may be be called "The Punjab Appeals' Act, 1868."

Extent of Act.

Commencement and continuance of Act.

II. This Act shall extend only to the territories for the time being under the Government of the Lieutenant-Governor of the Punjab. It shall come into operation from the 30th day of April, 1868, in regard to all appeals preferred after that day, and shall continue in force to the 30th day of April, 1873:

Provided that, as to such appeals (if any) as shall before the day last mentioned have been preferred under the provisions herein contained, and shall not have been disposed of, this Act shall remain in force until such appeals shall have been disposed of as aforesaid.

Appeals when to lie.

III. Except when otherwise provided in this Act or any other Act in force for the time being, an appeal shall lie from the decrees of the Courts of original and appellate jurisdiction to the Courts authorized under Act XIX. of 1865 *(the Punjab Courts' Act)* and Act IV. of 1866 *(the Punjab Chief Court Act)* to hear appeals.

Code of Civil Procedure to apply to appeals.

IV. All appeals falling within the jurisdiction of the Courts established in conformity with the said Act shall, save as in the said Acts, and in this Act is otherwise provided, be regulated by the Code of Civil Procedure.

Second regular appeals.

V. If the decision of a Deputy Commissioner or of a Commissioner passed in regular appeal reverse or modify the decision of the Court of original jurisdiction on a point material to the merits of the case, the Commissioner where the decision shall have been passed on regular appeal by the Deputy Commissioner, and the Chief Court where the decision shall have been passed on regular appeal by the Commissioner, may receive a second appeal, if, on a persual of the grounds of appeal and of copies of the judgment of the Courts below, a further consideration of the case appear to the Commissioner or the Chief Court (as the case may be) requisite for the ends of justice.

Time for presenting appeal.

VI. The memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, accompanied by copies of the judgments of the lower Courts, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within such period, that is to say, within sixty days if the appeal lie to the Court of a Deputy Commissioner or Commissioner; and within ninety days if the appeal lie to the Chief Court.

The period shall be reckoned from and exclusive of the day on which the judgment and decree appealed against was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the jugdment and decree from which the appeal is made.

Confirmation of decision of lower Court.

VII. When a memorandum of appeal, or an application for the admission of a special appeal, has been registered, the Appellate Court may, if it sees fit, after fixing a time for hearing the appellant or his pleader, and hearing him accordingly if he appears at such time, confirm the decision of the lower Court, without sending intimation of the appeal to such Court and without issuing notice to the respondent.

Chief Court may remove appeals.

VIII. The Chief Court of the Punjab may, whenever it thinks proper to do so, either on the agreement of the parties to that effect or for purposes of justice, remove and try any appeal falling within the jurisdiction of any Court subject to its superintendence.

IX. Any person considering himself aggrieved by a decree of a

Review of judgment.

Court of original jurisdiction from which no appeal shall have been preferred to a superior Court, or by a decree of a District or Divisional Court from which no regular or special appeal shall have been admitted by the Chief Court, or by a decree of the Chief Court from which either no appeal may have been preferred to Her Majesty in Council, or, an appeal having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council, and who, from the discovery of new matter or evidence which was not within his knowledge, or could not have been adduced by him at the time when such decree was passed, or from any other good or sufficient reason, may be desirous of obtaining a review of the judgment passed against him, may apply for a review of judgment by the Civil Court which passed the decree, or by any Court to which the business of the former Court has been transferred.

Except as hereinbefore provided, the judgment of the Civil Courts established in conformity with the said Acts and with Act III. of 1868 (*to authorize the local Government of the Punjab to invest any person with the powers of an Assistant Commissioner or Tahsildar*) shall not be subject to revision.

Pending suits.

X. If in any suit pending when this Act comes into operation, it appears to the Court that the application of its provisions would deprive any party to a suit of a right of appeal which, but for the passing of this Act, would have belonged to him, the Court shall proceed according to the law in force immediately before this Act takes effect.

Act No. X. of 1868.

An Act to amend the Consolidated Customs' Act.

Preamble.

Whereas Section 132 of the Consolidated Customs' Act (VI. of 1863) provides that no refund of duty levied upon goods not shipped, or upon goods shipped and afterwards re-landed, shall be allowed, unless application to re-land shall have been made, or notice of non-shipment shall have been given, before the vessel on which such goods were intended to be shipped, or from which they were re-landed, shall have left the port; and whereas it is expedient to extend the time within which such application or notice may be made or given; It is hereby enacted as follows:

Amendment of Act VI., 1863, Section 132.

I. For the proviso contained in the said Section, the following shall be substituted:

Provided that no such refund shall be allowed unless application to re-land shall have been made, or notice of non-shipment shall have been given, within three clear working days after the vessel on which such goods were intended to be shipped or from which they were re-landed shall have left the port.

Short Title.

II. This Act may be called the "Consolidated Customs' Act Amendment Act."

ACT No. XII. OF 1868.

An Act to empower the Governor-General of India in Council to suspend the operation of Section 17 *of Act XI. of* 1841.

Power to suspend Act XI. of 1841, *Section* 17.

I. It shall be lawful for the Governor-General of India in Council, by notification in the *Gazette of India*, to suspend in any Military Cantonment beyond the limits of British India the operation of Section 17 of Act XI. of 1841 *(for consolidating and amending the regulations concerning Military Courts of Requests for Native officers and soldiers in the service of the East India Company)* from such day as shall be specified in the said notification until further notice, or to such other day as shall be specified in such notification.

ACT No. XIII. OF 1868.

An Act to exempt the King of Oudh from the jurisdiction of the Civil Courts, and for other purposes.

Preamble.

Whereas it is expedient to exempt the King of Oudh from the jurisdiction of the Civil Courts, and to render him incapable of entering into certain contracts; It is hereby enacted as follows:

I. *Repealed by the Repealing Act XIV.*, 1870.

No suits to be brought against the King of Oudh, unless with consent of Government.

II. No suit shall be commenced or prosecuted, and no writ or process shall at any time be sued for, against the person or property of His Majesty the King of Oudh, unless such suit shall be commenced, or such writ or process shall be sued for, with the consent of the Governor-General of India in Council first had and obtained.

Such consent shall be certified by the signature of one of the Secretaries to the Government of India, and every such signature shall be judicially noticed.

And any suit which at any time shall have been or shall be commenced, and any writ or process which at any time shall have been or shall be sued for, against the person or property of His said Majesty without such consent so certified as aforesaid, shall be null and void.

King of Oudh to be incapable of contracting.

III. His said Majesty shall be incapable of entering into any contract which may give rise to any pecuniary obligation on his part.

Nothing in this Act to render Secretary of State or Government of India liable.

IV. Nothing herein contained shall be deemed to render the Secretary of State for India in Council, or the Government of India, liable for any debt heretofore contracted by or on behalf of His said Majesty, or in respect of any claim to be reimbursed which may be made by any person supplying His said Majesty with necessaries.

Short Title.

Commencement of Act.

V. This Act may be called "The King of Oudh's Act, 1868," and shall come into operation on the 1st day of May, 1868.

ACT No. XIV. OF 1868.

1. Short Title.
2. Interpretation Clause. "Magistrate." "Contagious disease." "Brothel-keeper."
3. Extent of Act.
4. Punishment of unregistered prostitutes and brothel-keepers.
5. Local Government to make rules for registration and appoint officers.
6. Change of residence.
7. Penalty for refusing to show evidence of registration.
8. Penalty for permitting unregistered prostitutes to resort to brothels. Proviso.
9. Brothel-keepers legally bound to furnish information.
10. Examination of prostitutes.
11. Local Government may make rules as to examinations. Reports. Penalty for disobeying rules.
12. Local Government may provide and certify Hospitals. Control of such Hospitals.
13. Regulations for management of Hospitals.
14. Registered prostitutes on receiving notice to go to Hospital. Penalty for neglect or refusal.
15. Detention of prostitutes under medical treatment.
16. Penalty for leaving Hospital before discharge. Penalty for disobeying regulations of Hospital.
17. Power to provide for out-door treatment of registered women.
18. Penalty for acting as a prostitute while under medical treatment.
19. Subsistence-allowance.
20. Penalty for residing in street or place after prohibition.
21. Removal of name from registry.
22. Institution of prosecutions.
23. Presumption as to signatures.
24. Service of notice.
25. Limitation of suits.
26. Power to make rules.

An Act for the Prevention of certain Contagious Diseases.

Preamble. Whereas it is expedient to provide for the better prevention of certain contagious diseases; It is hereby enacted as follows:

Preliminary.

Short Title. I. This Act may be cited as "The Indian Contagious Diseases' Act, 1868."

Interpretation Clause. II. In this Act—

"Magistrate." "Magistrate" means any person exercising the powers of a Magistrate or of a Subordinate Magistrate of the first class, and includes a Magistrate of Police in a Presidency Town:

"Contagious disease." "Contagious disease" means any contagious venereal disease:

"Brothel-keeper." "Brothel-keeper" means the occupier of any house, room or place to or in which women resort or are for the purpose of prostitution and every person managing or assisting in the management of any such house, room or place.

Extent of Act. * III. The places to which this Act applies shall be such places as the local Government shall from time to time, with the previous sanction of the Governor-General of India in Council, specify by notification in the official Gazette. The limits of such places shall, for the purposes of this Act, be such as are defined in the said notification, and may from time to time, with such sanction as aforesaid, be altered by a like notification.

Unregistered Prostitutes and Brothel-keepers.

Punishment of unregistered prostitutes and brothel-keepers. IV. In any place to which this Act applies, no woman shall carry on the business of a common prostitute, and no person shall carry on the business of a brothel-keeper, without being registered under this Act at such place, and without having in her or his possession such evidence of registration as hereinafter provided.

* Extended to the City of Nagpore and its Suburbs, including the Stations of Seetabuldee and Taklee by G. O. No. 3147. See *Gazette of India*, 10th July, 1869, p. 99.

Any woman carrying on the business of a common prostitute, and any person carrying on the business of a brothel-keeper, without having been registered as aforesaid, or without having in her or his possession such evidence as aforesaid, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one month, or with fine not exceeding 100 Rupees, or with both.

Registration of Prostitutes and Brothel-keepers.

Local Government to make rules for registration and appoint officers.

V. The local Government shall make rules for the registration of common prostitutes and of brothel-keepers, and shall appoint officers for the conduct of such registration, and may, with the previous sanction of the Governor-General of India in Council, assign salaries and establishments to the said officers. The local Government shall also provide such books and forms as may be necessary for the purposes of this Act.

Every woman complying with such rules (so far as they relate to prostitutes) and every brothel-keeper complying with such rules (so far as they relate to brothel-keepers) shall be deemed to be registered under this Act, and the registering officer shall furnish her or him with such evidence of registration as the local Government shall from time to time direct.

The name, age, caste (if any) and residence of every such woman and such other particulars respecting her as the local Government shall from time to time direct, shall be entered in a book to be kept for that purpose.

The name and residence of every such brothel-keeper and the situation of the house, room or place in which he carries on his business shall be entered in a book to be kept for that purpose.

Change of residence.

VI. Whenever any such woman changes her residence, she shall give notice thereof to such person and in such manner as the local Government shall from time to time direct, and the necessary alterations shall be made in the said book and in the evidence of registration furnished to her as aforesaid.

Any such woman failing to give notice as aforesaid shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to fourteen days, or with fine not exceeding 50 Rupees, or with both.

Whenever any brothel-keeper changes his residence or acquires or enters into the occupation of any such house, room or place as last aforesaid, other than the house, room or place of which the situation has been registered as aforesaid, he shall give notice thereof to such person and in such manner as the local Government shall from time to time direct, and the necessary alterations or additions shall be made in or to the said book and in the evidence of registration furnished to him as aforesaid.

Any such brothel-keeper failing to give notice as last aforesaid shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one month, or with fine not exceeding 100 Rupees, or with both.

Refusal to show Evidence of Registration.

VII. Any registered woman or brothel-keeper who, without

Penalty for refusing to show evidence of registration.

reasonable excuse, neglects or refuses to produce and show the evidence of her or his registration with which she or he shall have been furnished as aforesaid, when required so to do by such officer as the local Government shall from time to time appoint in this behalf, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to fourteen days, or with fine not exceeding 50 Rupees, or with both.

Information of the class of officers for the time being authorized to make requisitions under this Section shall be furnished to registered women and brothel-keepers, under such rules as the local Government shall from time to time prescribe.

Special Provisions relating to Brothels.

Penalty for permitting unregistered prostitutes to resort to brothels.

VIII. If any brothel-keeper, whether registered as such under this Act or not, has reasonable cause to believe any woman to be a prostitute and not to be registered under this Act, and induces or suffers her to resort or be, for the purpose of prostitution, to or in the house, room or place in which he carries on his said business, he shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both:

Proviso.

Provided that nothing in this or any other Section of this Act shall exempt the offender from any penal or other consequences to which he may be liable for keeping or being concerned in keeping a brothel or disoderly house or for the nuisance thereby occasioned.

Brothel-keepers legally bound to furnish information.

IX. Every such brothel-keeper shall be legally bound to furnish information on any subject relating to his business to such officers and in such manner and at such times as the local Government shall from time to time prescribe in this behalf. Every such officer shall, for the purposes of this Section, be deemed to be a public servant.

Examination of Prostitutes.

Examination of prostitutes.

X. The local Government shall have power to appoint persons to make periodical examinations of registered women in order to ascertain whether at the time of each such examination they are affected with contagious disease.

Local Government may make rules as to examinations.

XI. For each of the places to which this Act applies, the local Government may make rules consistent with this Act respecting the times and places of examination under this Act at that place, and generally respecting the arrangements for the conduct of those examinations and for recording the results thereof; and a copy of rules purporting to be rules under this Section shall, if signed by a Secretary to such Government, be evidence of such rules for the purposes of this Act.

Reports.

The local Government may also require the persons making such examination to send in reports to such persons at such times and in such form as the local Government shall from time to time prescribe.

Any person not a medical officer appointed to make such examination, and any registered woman, disobeying any rule made under this Section, shall, on conviction before a Magistrate, be punished with simple imprisonment for a term which may extend to one month, or with fine not exceeding 100 Rupees, or with both.

Penalty for disobeying rules.

Certified Hospitals.

Local Government may provide and certify Hospitals.

XII. The local Government may from time to time provide any building or parts of buildings as Hospitals for the purposes of this Act.

Any building or part of a building so provided and certified in writing by a Secretary to the local Government to be so provided, shall be deemed a certified Hospital under this Act.

Control of such Hospitals

Every certified Hospital so provided shall be placed under the control and management of such persons as to the local Government shall from time to time seem fit.

Regulations for management of Hospitals.

XIII. The local Government shall make regulations for the inspection, management, and government of the Hospitals as far as regards women authorized by this Act to be detained therein for medical treatment or being therein under medical treatment for a contagious disease.

A copy of regulations purporting to be regulations made under this Section shall, if signed by a Secretary to such Government, be evidence of such regulations for the purposes of this Act.

Registered prostitutes on receiving notice to go to Hospital.

XIV. Any woman registered under this Act shall, on receiving notice from any such officer as the local Government shall from time to time appoint in this behalf, proceed to the certified Hospital named in such notice and place herself there for medical treatment.

Penalty for neglect or refusal.

If after the notice is delivered to her, she neglects or refuses to proceed to the said Hospital within the time specified in the said notice, an officer of Police shall apprehend her and convey her with all practical speed to such Hospital, and place her there for medical treatment.

Detention of prostitutes under medical treatment.

XV. Whenever any such woman affected with contagious disease places herself or is placed as aforesaid in a certified Hospital for medical treatment, she shall be detained there for that purpose by such medical officer of the Hospital as the local Government shall from time to time appoint in this behalf until discharged by him by writing under his hand.

Medical treatment, lodging, clothing and food shall be provided gratis for every such woman during her detention in the Hospital.

Penalty for leaving Hospital before discharge.

XVI. If any woman authorized by such medical officer to be detained in a certified Hospital for medical treatment, quits the Hospital without being discharged therefrom by the chief medical officer thereof, by writing under his hand (the proof whereof shall lie on the accused), or

Penalty for disobeying regulations of Hospital.

if any woman authorized by this Act to be detained in a certified Hospital for medical treatment, or any woman being in a certified Hospital under medical treatment for a contagious disease, refuses or wilfully neglects while in the Hospital to conform to the regulations thereof approved under this Act,

then and in every such case such woman shall, on conviction before a Magistrate, be punished with imprisonment, in the case of a first offence, for any term not exceeding one month, and in the case of a second or any subsequent offence, for any term not exceeding three months, and in case she quits the Hospital without being discharged as aforesaid, she may be taken into custody without warrant by any officer of Police.

On the expiration of her term of imprisonment under this Section, such woman shall be sent back from the prison to the certified Hospital, and shall be detained there unless the medical officer of the prison at the time of her discharge from imprisonment certifies in writing that she is free from contagious disease (the proof of which certificate shall lie on her.)

Out-door Treatment of Prostitutes.

Power to provide for out-door treatment of registered women.

XVII. It shall be lawful for the local Government to empower such surgeons or other persons as it shall from time to time appoint, to prescribe, by order be served on any women registered under this Act, who has not received a notice under Section 14 the times and places at which she shall attend for medical treatment, and, if necessary, the medical treatment to which she shall submit.

Every such woman disobeying or failing to comply with any such order, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to a month, or with fine not exceeding one 100 Rupees, or with both.

Penalty for acting as a prostitute while under medical treatment.

XVIII. If any registered woman on whom such order as last aforesaid shall have been served, conducts herself as a common prostitute before such surgeon or other person empowered as last aforesaid certifies in writing to the effect that she is then free from a contagious disease (the proof of which certificate shall lie on her), she shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine not exceeding 500 Rupees, or with both.

Subsistence-allowance.

XIX. During the interval between the service of such order upon any registered woman and the granting of such certificate, an allowance for her subsistence shall be provided of such amount and in such manner as the local Government shall from time to time prescribe.

Segregation of Prostitutes.

Penalty for residing in street or place after prohibition.

XX. In any place to which the local Government shall, by notification in the official Gazette, have specially extended this Section, it shall be lawful for such officer as the local Government shall from time to time appoint in this behalf, to cause a notice to be served on any registered woman, requiring her, after an interval of not less than seven days to be mentioned in the notice, not to reside in any street or place therein specified.

Any registered woman on whom such notice shall have been served disobeying the requisition therein contained shall, on conviction before a Magistrate, be punished with imprisonment, in the case of a first offence for any term not exceeding one month, and in the case of a second or any subsequent offence, for any term not exceeding three months.

Removal from Registry.

Removal of name from registry.

XXI. The local Government shall lay down rules prescribing a procedure in accordance with which any woman registered under this Act and desirous of ceasing to carry on the business of a common prostitute in the place at which she is registered and of having her name removed from the said book may have her name removed accordingly.

Miscellaneous.

Institution of prosecutions

XXII. No prosecution shall be instituted under this Act except at the instance of such officer as the local Government shall from time to time appoint in this behalf.

Presumption as to signatures

XXIII. In any proceeding under this Act, any notice, order, certificate, copy of regulations, or other document purporting to be signed by any person in the service of Government, or by any person whom the local Government shall have, in exercise of the powers conferred on it by this Act, appointed to sign such document, shall on production be received on evidence and shall be presumed to have been duly signed by the person and in the character by whom and in which it purports to be signed, until the contrary is shown.

Service of notice

XXIV. Every notice and order required by this Act to be served on a woman shall be served by delivery thereof either to her personally or to some person for her at her usual place of abode.

Limitation of suits.

XXV. Any suit against any person for anything done in pursuance of this Act, shall be commenced within three months after the thing done, and not otherwise.

Notice in writing of every such suit and of the cause thereof shall be given to the intended defendant one month at least before the commencement of the suit.

The plaintiff shall not recover if tender of sufficient amends is made before suit, or if a sufficient sum of money is paid into Court after suit brought, by or on behalf of the defendant.

Power to make rules.

XXVI. The local Government shall have power from time to time to declare by what officer anything directed to be done by this Act shall be done, and by what class of officers information regarding anything made an offence by this Act shall be exclusively furnished.

The local Government may also from time to time make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement.

The local Government may also from time to time alter and add to any rules or regulations made under this Act: Provided that such alterations and additions are not inconsistent with any of the provisions hereinbefore contained.

ACT No. XVI. OF 1868.

1. Repealed.
2. Interpretation Clause. "Local Government." "High Court." "District Judge."
3. Extent of Act.
4. First Subordinate Judges. First Moonsifs.
5. Appointment of Subordinate Judges and Moonsifs.
6. District Judge's power to make acting appointment to office of Moonsif.
7. Declaration.
8. Subordinate Judges and Moonsifs to be Civil Courts.
9. Appointment of ministerial officers.
10. Suspension by High Court or District Judge.
11. Local limits of jurisdiction.
12. Jurisdiction over pending proceedings.
13. Jurisdiction of Moonsifs.
14. Appeals to District Judge from Moonsifs.
15. Original jurisdiction of Subordinate Judges.
16. Power to invest Subordinate Judges with Moonsif's powers.
17. Appellate jurisdiction of Subordinate Judges.
18. Appeals to District Judge from Subordinate Judges. Appeals to High Court from Subordinate Judges.
19. High Court may order District Judge to transfer to a Subordinate Judge or Moonsif certain Civil Proceedings.
20. Power to invest Subordinate Judge or Moonsif with powers of Small Cause Court Judge.
21. Power to invest Small Cause Court Judge with powers of Subordinate Judge.

An Act to consolidate and amend the law relating to Principal Sudder Ameens and Moonsifs in Bengal, and for other purposes.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to Principal Sudder Ameens and Moonsifs in the territories respectively under the Governments of the Lieutenant-Governor of the Lower Provinces and of the Lieutenant-Governor of the North-Western Provinces, of the Presidency of Fort William in Bengal, and to abolish the office of Sudder Ameen, and to alter the designation of the officers now styled Principal Sudder Ameens; and whereas it is also expedient to provide for the investment of subordinate Judges and Moonsifs in such territories with the jurisdiction of Judges and Courts of Small Causes beyond the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature; It is hereby enacted as follows:

PRELIMINARY.

I. *Repealed by the Repealing Act XIV.*, 1870.

Interpretation Clause.

II. In this Act—

"Local Government."

"Local Government" means the Lieutenant-Governor of the Lower Provinces, or the Lieutenant-Governor of the North-Western Provinces, of the said Presidency, as the case may be;

"High Court."

"High Court" means the High Court of Judicature at Fort William, or the High Court of the North-Western Provinces of the said Presidency, as the case may be;

"District Judge."

"District Judge" means the Judge of a principal Civil Court of original jurisdiction.

Extent of Act.

III. This Act extends only to the territories for the time being respectively under the Governments of the Lieutenant-Governor of the Lower Provinces and the Lieutenant-Governor of the North-Western Provinces, of the said Presidency.

SUBORDINATE JUDGES AND MOONSIFS.

First Subordinate Judges.

IV. The present Principal Sudder Ameens shall be the first Subordinate Judges, and (subject to any alteration of the limits of their local jurisdiction which may be made by the local Government) shall severally exercise the jurisdiction of Subordinate Judges under this Act within the local limits within which,

immediately before the passing of this Act, they respectively exercised the jurisdiction of Principal Sudder Ameens.

First Moonsifs.

The present Sudder Ameens and Moonsifs shall be the first Moonsifs and (subject to any alteration of the limits of their local jurisdiction which may be made by the local Government) shall severally exercise the jurisdiction of Moonsifs under this Act within the local limits within which, immediately before the passing of this Act, they respectively exercised the jurisdiction of Moonsifs.

Appointment of Subordinate Judges and Moonsifs.

V. Whenever the office of a Subordinate Judge under this Act is vacant, the local Government may appoint to the office such person as it thinks proper.

Whenever the office of a Moonsif under this Act is vacant, the High Court shall nominate such person as it thinks fit to fill such office, and the local Government shall appoint him accordingly.

It shall be lawful for the local Government, with the sanction of the Governor-General of India in Council, to make rules as to the qualifications of persons to be nominated Moonsifs under this Act, and from time to time to alter and add to the rules so made.

When such rules shall have been made, no person, notwithstanding anything hereinbefore contained, shall be nominated to the office of Moonsif, unless he possesses the qualifications prescribed by the said rules.

Acting Appointments.

District Judge's power to make acting appointment to office of Moonsif.

VI. Any District Judge, on the occurrence within his jurisdiction of any vacancy in the office of Moonsif, may, pending the orders of the High Court thereon, appoint such person as he thinks fit to act in such office. And he shall forthwith report to the High Court the occurrence of every such vacancy and of every such appointment.

Declaration.

Declaration.

VII. Every person hereafter appointed under this Act shall, on his first appointment, and previously to entering on the duties of his office, subscribe, before the District Judge to whose control he is subject, the following declaration :—

"I, *A. B.*, appointed Subordinate Judge [*or* Moonsif] of————, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment."

Subordinate Judges and Moonsifs to be Civil Courts.

VIII. Every Subordinate Judge and Moonsif under this Act shall be deemed to be a Civil Court within the meaning of the Code of Civil Procedure and of this Act.

Ministerial Officers.

Appointment of ministerial officers.

IX. All ministerial officers of the Courts of Subordinate Judges and Moonsifs shall be nominated and appointed by those Courts respectively, subject to the approval of the District Judge within whose jurisdiction such Courts are situate.

Every such Court may, by order, fine, suspend or dismiss any of its ministerial officers who is guilty of any misconduct or neglect in the performance of the duties of his office. But every such order shall be

subject to appeal to the District Judge; and the rules for the time being applicable to appeals to the Court of Session from orders of the Criminal Courts subordinate thereto shall apply to all appeals under this Section.

Nothing in this Section shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

Suspension of Subordinate Judges and Moonsifs.

Suspension by High Court of District Judge.

X. The High Court may, whenever it sees urgent necessity for so doing, suspend any Subordinate Judge under its control.

Whenever the High Court suspends any such Subordinate Judge, it shall forthwith report to the local Government the circumstances of such suspension, and the local Government may direct him to be removed from his office, or make such other order as the case may require.

Any District Judge may, whenever he sees urgent necessity for so doing, suspend any Moonsif under his control.

Whenever the District Judge suspends any such Moonsif, he shall forthwith send to the High Court a full report of the case with the evidence, and the High Court shall make such order in the matter as it thinks fit.

The High Court may at any time, by order, remove from his office or suspend any Moonsif subject to its control.

JURISDICTION.

Local limits of Jurisdiction.

Local limits of jurisdiction.

XI. The local Government may define and from time to time vary the local limits of the jurisdictions of Subordinate Judges and Moonsifs.

Pending Proceedings.

Jurisdiction over pending proceedings.

XII. Every Court under this Act shall have the same jurisdiction over all proceedings pending in the Court for which it shall have been substituted, as the Principal Sudder Ameen, Sudder Ameen, or Moonsif (as the case may be) of such Court would have had if this Act had not been passed:

Provided that every Moonsif exercising jurisdiction under this Act within the local limits of a Sudder Moonsifi shall have jurisdiction over all proceedings pending in the Court of the Sudder Ameen immediately before the passing of this Act.

Extent of Jurisdiction.

(a.)—Moonsifs.

Jurisdiction of Moonsifs.

XIII. Moonsifs are empowered to try all original suits cognizable by the Civil Courts of which the subject-matter does not exceed in amount or value 1,000 Rupees.

Appeals to District Judge from Moonsifs.

XIV. In all such suits in which an appeal is, for the time being, allowed by law, an appeal shall lie from the decision of the Moonsif to the District Judge to whose control he is subject.

(b.)—Subordinate Judges.

Original jurisdiction of Subordinate Judges.

XV. Subordinate Judges are empowered to try all original suits cognizable by the Civil Courts of which the subject-matter exceeds in amount or value 1,000, Rupees and (if the District Judge shall have referred them under the Code of Civil Procedure) suits of which the subject-matter is of any less amount or value.

Power to invest Subordinate Judges with Moonsif's powers.

XVI. The local Government may invest any Subordinate Judge with the powers of a Moonsif under Section 13, and may define and from time to time vary the local limits within which such powers are to be exercised.

Appellate jurisdiction of Subordinate Judges.

XVII. Every District Judge may from time to time, subject to the orders of the High Court, refer to any Subordinate Judge under his control any appeals pending before him from decisions passed by Moonsifs under Section 13; and such subordinate Judge shall hear and dispose of such appeals accordingly.

Appeals to District Judge from Subordinate Judges.

XVIII. In suits decided by any Subordinate Judge in the exercise of his original jurisdiction, of which the amount or value of the subject-matter does not exceed 5,000 Rupees, an appeal shall lie to the District Judge to whose control such subordinate Judge is subject.

Appeals to High Court from Subordinate Judges.

In all other suits decided by any Subordinate Judge, whether in the exercise of his original or appellate jurisdiction, the appeal from the decision of such Judge shall be direct to the High Court.

High Court may order District Judge to transfer to a Subordinate Judge or Moonsif certain civil proceedings.

XIX. The High Court may from time to time by order authorize the Judge of any District Court to transfer to a Subordinate Judge or Moonsif subject to the control of such District Court any civil proceedings (not being suits), or any class of such proceedings, specified in such order and which may be then pending, or may be thereafter instituted, in such District Court.

All proceedings so transferred shall be disposed of by the Subordinate Judge or Moonsif (as the case may be) according to the rules prescribed for the guidance of District Judges in the like cases:

Provided that an appeal from the order of the Subordinate Judge or Moonsif in such cases shall lie to the District Judge, and a special appeal from his order thereon shall lie to the High Court, if an appeal from the decision of the Judge in such proceedings is allowed by the law in force for the time being.

(c.)—Small Cause Court Powers.

Power to invest Subordinate Judge or Moonsif with powers of Small Cause Court Judge.

XX. The local Government may invest, within such local limits as it shall from time to time appoint, any subordinate Judge with the jurisdiction of the Judge of a Court of Small Causes, for the trial of suits cognizable by such Courts, up to the amount of 500 Rupees, and any Moonsif with the same jurisdiction up to the amount of 50 Rupees, and may, whenever it thinks fit, withdraw such jurisdiction from the Subordinate Judge or Moonsif so invested.

XXI. Section 51 of Act XI. of 1865 *(to consolidate and*

Power to invest Small Cause Court Judge with powers of Subordinate Judge.

amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature) shall be read as if for the words "Principal Sudder Ameen," the words "Subordinate Judge" were substituted.

SCHEDULE.

Repealed by the Repealing Act XIV., 1870.

ACT No. XVIII. OF 1868.

1. Power to invest Commissioner and Assistant Commissioner of Neilgherry Hills with Small Cause jurisdiction
2 Power to make rules.
3 Opinion of Commissioner to prevail in case of difference.
4. Pending suits.
5. Repealed.

An Act for investing the Commissioner and Assistant Commissioner of the Neilgherry Hills with the powers of a Court of Small Causes.

Preamble.

Whereas it is expedient that the Commissioner and the Assistant Commissioner of the Neilgherry Hills appointed under the provisions of Madras Act I. of 1868 *for the appointment of a Commissioner for the administration of Civil and Criminal justice, and for the superintendence and collection of the revenues on the Neilgherry Hills* (should be invested with the powers of a Court of Small Causes constituted under the provisions of Act XI. of 1865. *to consolidate and amend the law relating to Courts of Small Causes beyond the limits of the ordinary original civil jurisdiction of the High Courts of Judicature*); It is hereby enacted as follows:

Power to invest Commissioner and Assistant Commissioner of Neilgherry Hills with Small Cause jurisdiction.

I. The Governor of Fort St. George in Council may, by notification in the local official Gazette, authorize the said Commissioner and Assistant Commissioner to exercise jointly or separately within the territorial limits of the jurisdiction of the said Commissioner the powers of a Judge of a Court of Small Causes constituted under the provisions of the said Act XI. of 1865, but subject to the rules hereinafter referred to.

Power to make rules.

II. The said Governor in Council may frame rules providing for the distribution of business between the said Commissioner and Assistant Commissioner in their capacity of Judges of a Court of Small Causes, and generally for defining their duties and relative positions when acting in such capacity, and may also from time to time alter and add to the rules so made: Provided that such rules, alterations and additions are consistent with the provisions of this Act.

Opinion of Commissioner to prevail in case of difference.

III. Whenever there is a difference of opinion between the said Commissioner and Assistant Commissioner sitting together as aforesaid upon any question of fact, law or practice, or upon any usage having the force of law, the opinion of the Commissioner shall prevail.

Pending suits.

IV. Suits and proceedings pending before the Civil Judge at Ootacamund in his capacity of a Judge of a Court of Small Causes, when this Act comes into operation, shall be heard and determined by the said Commissioner or Assistant Commissioner in accordance with the rules to be made under Section 2.

V. *Repealed by the Repealing Act XIV.*, 1870.

THE OUDH RENT ACT.

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An Act to consolidate and amend the law relating to Rent in Oudh.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to rent in Oudh and to other matters connected therewith; It is hereby enacted as follows:

CHAPTER I.

PRELIMINARY.

Short Title and extent of Act.

I. This Act may be cited as "The Oudh Rent Act," and shall extend only to Oudh.

II. *Repealed by the Repealing Act XIV.*, 1870.

Interpretation Clause.

III. In this Act—unless there be something repugnant in the subject or context—

"Oudh."

"Oudh" means the territories under the administration of the Chief Commissioner of Oudh at the time of the passing of this Act:

"Court."

"Court" means any judicial officer presiding in a Court of Revenue for the disposal of matters under this Act:

"Suit."

"Suit" means a suit under this Act:

"Assistant Commissioner."

"Assistant Commissioner" includes an Extra Assistant Commissioner:

"Land."

"Land" applies only to land assessed to the land-revenue, and includes land whereof the revenue has been assigned by Government: it also includes the ungathered produce of land, whether spontaneous or otherwise, and whether growing in earth or water:

"Revenue."

"Revenue" means the money payable to the Government on account of land:

"Rent."

"Rent" means the money or the portion of the produce of land, payable on account of the use or occupation of land, or on account of the use of water for irrigation:

"Proprietor."

"Proprietor" does not include an under-proprietor. Where there are two private rights of property, one superior and the other subordinate, in the same land, "proprietor" means the holder of the superior right only:

"Proprietary right."

"Proprietary right" means a proprietor's right in land:

"Under-proprietor."

"Under-proprietor" means any person possessing a heritable and transferable right of property in land for which he is liable to pay rent:

"Under-proprietary right."

"Under-proprietary right" means an under-proprietor's right in land:

"Tenant."

"Tenant" means any person, not being an under-proprietor, who is liable to pay rent:

"Landlord."

"Landlord" means any person to whom an under-proprietor or tenant is liable to pay rent:

"Representative."

"Representative" means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person. It includes the guardian of a minor and the legal curator of a lunatic or idiot; and

"Lumberdar" means any person who has executed an engagement for the payment of the revenue to Government, or for the payment to a landlord of the rent due from under-proprietors holding a sub-settlement.

"Lumberdar."

IV. Nothing in Sections 19, 20, 21, 22, 23, 24, 25, and 28 shall affect the terms of any agreement in writing heretofore or hereafter entered into respecting the subject-matter of the said Sections respectively.

Saving of written agreements.

Nothing in the index to this Act shall be deemed to have the force of law.

Index not to have force of law.

CHAPTER. II.

OF CERTAIN RIGHTS AND LIABILITIES OF LANDLORDS, UNDER-PROPRIETORS, AND TENANTS.

Right of Occupancy.

V. Tenants who have lost all proprietary-right, whether superior or subordinate, in the lands which they hold or cultivate, shall, so long as they pay the rent payable for the same according to the provisions of this Act, have a right of occupancy under the following rule:—

Tenants having a right of occupancy.

Rule.

Every such tenant, who, within thirty years next before the 13th day of February, 1856, has been, either by himself or by himself and some other person from whom he has inherited, in possession as proprietor in a village or estate, shall be deemed to possess a heritable but not a transferable right of occupancy in the land which he cultivated or held in such village or estate on the 24th day of August, 1866: Provided that such land has not come into his occupation, or the occupation of the person from whom he has inherited, for the first time since the said 13th day of February, 1856: Provided, also, that no such tenant shall have a right of occupancy in any village or estate in which he or any co-sharer with him possesses any under-proprietary right.

Nothing contained in the former part of this Section shall affect the terms of any agreement in writing hereafter entered into between a landlord and tenant.

VI. If a tenant having a right of occupancy be ejected, in accordance with the provisions of Section 41, from the land in which he possesses such right, he shall thereupon lose his right of occupancy in such land.

Loss of right of occupancy.

Tenants' Right to Leases.

VII. Every tenant is entitled to receive from his landlord a lease executed by him and containing the following particulars:—

Tenant's right to a lease.

The quantity of land; and where the fields comprised in the lease have been numbered in a Government survey, the number of each field:

The term for which the lease is granted:

The amount of rent payable:

The instalments in which and the times at which the same is to be paid:

Any special conditions of the lease:

And, if the rent is payable in kind, the proportion of produce to be delivered, and the time, manner and place of delivery.

Lease to which tenant having right of occupancy is entitled.

VIII. Tenants having a right of occupancy are entitled to receive leases at rates of rent determined in accordance with the provisions contained in Sections 32, 33, and 34.

Lease to which tenant not having right of occupancy is entitled.

IX. Tenants not having a right of occupancy are entitled to leases only on such terms as may be agreed on between them and the landlord.

Landlords' Right to Counterparts.

Landlord entitled to counterpart.

X. Every landlord who grants a lease is entitled to receive from the tenant a counterpart executed by him.

Cancelment of Leases.

Cancelment of lease.

XI. When any landlord or any tenant not having a right of occupancy fails to perform or observe any of the stipulations contained in the lease, such lease shall be liable to be cancelled by a decree.

If after such decree, the ejectment of the tenant is postponed in accordance with the provisions of Section 38, he shall be liable, so long as he remains in occupation of the land comprised in the lease, to pay the rent reserved thereby.

Arrears of Revenue or Rent.

What to be deemed an arrear of revenue or rent.

XII. Any instalment of revenue or rent which is not paid on or before the day when the same becomes due, whether under a written agreement or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrear of revenue or rent, as the case may be:

Provided that, unless the proprietor and under-proprietor shall have otherwise agreed in writing, the rent payable to the former by the latter shall be held to become due one month before the date fixed for the payment of the revenue on account of the village in which the land in respect of which such rent is payable is situate, and to be payable in the same number of instalments as the said revenue; and the amount of each instalment of such rent shall bear the same proportion to the whole of such rent payable for the year, as the amount of each instalment of such revenue bears to the whole of such revenue payable for the year.

Receipts.

Receipts for rent.

XIII. Receipts for rent and acknowledgments of the tender of rent shall specify the year or years on account of which it has been paid or tendered; and any refusal to make such specification shall be held to be a withholding of a receipt or acknowledgment.

If such receipt or acknowledgment is withheld from any under-proprietor or tenant without sufficient cause, he may recover compensation from the landlord not exceeding the amount so paid or tendered.

Deposit of Revenue or Rent in Court without Suit.

Power to pay into Court, without suit brought, amount of revenue or rent due.

XIV. If any co-sharer, under-proprietor or tenant having a right of occupancy, or holding under an unexpired lease or under an agreement or decree shall, at the place where the revenue or rent of the land held or cultivated by him is usually payable, tender to the person authorized to receive the same, payment of the full amount of such revenue or rent due in respect of such land, and if such amount is not accepted and a receipt in full forthwith granted, it shall be lawful for the co-sharer, under-proprietor or tenant, without any suit having been instituted against him, to deposit such amount in Court to the credit of the person authorized to receive it.

Such deposit shall, so far as regards the co-sharer, under-proprietor or tenant, and all persons claiming through or under him, operate as a payment then made to the lumberdar or landlord of the amount so deposited.

Procedure on making and withdrawing such payment.

XV. The Court shall receive such deposit on the written application of the co-sharer, under-proprietor or tenant or his recognized agent: **the application shall bear a stamp of eight annas*; and on such co-sharer, under-proprietor, tenant or agent, making a declaration in the form set forth in the Schedule A hereto annexed, or as near thereto as circumstances will admit, the Court shall give him a receipt for the deposit.

Such declaration shall be verified in the manner prescribed for the verification of plaints in the Code of Civil Procedure, and the provisions of Section 24 of the said Code shall apply to the person making the verification.

Upon receiving the money so deposited, the Court shall issue to the person to whose credit it has been deposited a notice in the form set forth in Schedule B hereto annexed.

Service of notice.

Such notice shall be served by the proper officer, without the payment of any fee, upon the person to whom it is addressed or upon his recognized agent.

In the absence of any such agent, it may be served by putting up a copy of the same at the Court-house, and another copy at the ordinary place of residence, within the jurisdiction of the Court, of such person, or if there be no such place, at the place where the revenue or rent is usually paid to the lumberdar or landlord, as the case may be, for the land in respect of which the money has been deposited.

If the person on whom such notice is served or his recognized agent appears and applies that the money in deposit be paid to him, it shall immediately be paid accordingly.

Limitation of suits for balance of revenue or rent.

XVI. Whenever a deposit has been made under the provisions of this Act, no suit shall be brought against the depositor or his representative on account of any revenue or rent which accrued due in respect of the land last hereinbefore mentioned prior to the date of the deposit, unless such suit is instituted within six months from the date of the notice mentioned in Section 15.

* The words in Italics are repealed by Act VII., 1870, Section 2, Schedule 3.

Compensation for non-acceptance of revenue or rent.

XVII. If, at the time of passing the decision in any such suit, the Court is satisfied that the full amount of revenue or rent due at the time of the deposit was tendered to, and was not accepted by, the lumberdar or landlord or his recognized agent, as the case may be, or that a receipt or acknowledgment was withheld for such amount without sufficient cause, the Court may award to such depositor compensation from the lumberdar or landlord, not exceeding the amount so paid or tendered.

If the Court be satisfied that the amount of the deposit was less than the amount of revenue or rent due, the Court shall pay the amount of the deposit to the lumberdar or landlord, and shall make a decree for the balance due by the depositor.

Illegal Enforcement of Payment of Rent.

Compensation to under-proprietor or tenant for illegal enforcement of payment.

XVIII. If payment of rent or of any sum in excess of the rent legally claimable is illegally enforced, and any under-proprietor or tenant institutes a suit to recover compensation for such enforcement, the Court may award to him compensation, not exceeding the sum of Rupees 200, in addition to any amount for which it makes a decree in respect of such payment.

An award of compensation under the former part of this Section shall not bar any prosecution to which the person enforcing such payment may be liable under any law for the time being in force.

Abatement of Rent.

Suits for abatement of rent by under-proprietor or tenant.

XIX. No suit for an abatement of rent shall be brought by any under-proprietor or tenant, except on the ground that the area of the land has been diminished by diluvion or on some ground specified in any lease, agreement or decree under which he holds:

Provided that, if the under-proprietor hold a sub-settlement in a revenue-paying estate, no such abatement shall be allowed to the under-proprietor unless a remission of revenue has been allowed on the same ground and by competent authority in the same estate.

Remission of Rent.

When Court may allow remission from rent.

XX. Notwithstanding anything contained in Sections 19, 35, and 36, the Court, in making a decree for an arrear of rent, may allow such remission from rent payable by any under-proprietor or tenant as appears equitable, if the arrear of the land in his occupation has been diminished by diluvion or otherwise, or if the produce of such land has been diminished by drought or hail, or other calamity beyond his control, to such an extent that the full amount of rent payable by him cannot, in the opinion of the Court, be equitably decreed:

Provided that, if the under-proprietor hold a sub-settlement, or if the tenant hold a lease for a term of not less than five years or have a right of occupancy in a revenue-paying estate, no such remission shall be allowed to him unless a remission of revenue shall have been allowed on the same ground and by competent authority in the same estate.

Relinquishment of Land.

Relinquishment of land by tenant.

XXI. Every tenant shall continue liable for the rent of the land in his holding, unless on or before the 15th day of May in any year he gives notice to the landlord or his recognized agent of his desire to relinquish such land, and relinquishes it accordingly, or unless it has been let to any other person by such landlord or agent.

If the landlord or his recognized agent refuse to receive such notice, the tenant may apply to the Tahsildar or proper officer, and written notice of such desire shall thereupon be served on such landlord or agent, and the tenant shall pay the costs of service.

The notice shall, if practicable, be served personally on the landlord or agent. But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the *choupal* or other conspicuous place in the village wherein the land is situate.

Compensation for Tenants' Improvements.

Tenant's right to compensation for improvements.

XXII. If any tenant, or the person from whom he has inherited, make any such improvements on the land in his occupation as are hereinafter metioned, the rent payable by him or his representative shall not be enhanced, nor shall he or his representative be ejected from the same land unless and until he or his representative, as the case may be, has received compensation for the outlay, in money or labour, or both, expended in making such improvements by him, or the person from whom he has inherited, or whom he represents, within thirty years next before the date of such enhancement or ejectment.

"Improvements" defined.

XXIII. The word "improvements," as used in Section 22, means works by which the annual letting value of the land has been, and, at the time of demanding compensation, continues to be, increased, and comprises—

1*st.*—The construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage, and for protection against floods; the construction of wells; the reclaiming and clearing of waste lands and jungles; and other works of a like nature;

2*nd.*—The renewal or reconstruction of any of the foregoing works, or such alterations therein or additions thereto as are not required for maintaining the same, and which increase durably their value.

Compensation how made.

XXIV. Such compensation may, at the option of the landlord or his representative, be made—

(1).—By payment in money;

(2).—By the grant of a beneficial lease of the land by the landlord or his representative to the tenant or his representative; or

(3).—Partly by payment in money and partly by the grant of such lease as aforesaid.

Provision for difference as to amount or value of compensation.

XXV. In case of difference as to the amount or value of the compensation tendered, either party may present an application to the Court*, *of a paper bearing a stamp of eight annas*, stating the matter in dispute and requesting a determination thereof.

* The words in Italics are repealed by Act VII., 1870, Section 2, Schedule 3.

On receiving such application the Court shall cause notice thereof to be served on the other party, and, after taking such evidence as the parties or either of them may adduce, and after such further enquiry (if any) as it may deem necessary, determine (as the case may be) the amount of the payment, or the terms of the lease, or both.

In determining such amount, the Court shall take into account any assistance given by the landlord, either directly in money, material or labour at the time of making such improvements, or indirectly by subsequently allowing the tenant to hold at a rate of rent more favourable than the rate at which he otherwise would have held.

The proceedings on any such application shall be deemed to be a suit for the purposes of Chapter 11 (as to reference to arbitration) of the Code of Civil Procedure, and of Section 9 of Act XXIII. of 1861 (*to amend Act VIII. of* 1859.)

Tender of lease for twenty years to bar right to compensation for improvements.

XXVI. If in any case a landlord tenders to a tenant a lease of the land in his occupation, for a term of not less than twenty years from the date of the tender, at the annual rent then paid by the tenant, or at such other annual rent as may be agreed upon, such tender, if accepted by the tenant, shall bar any claim by him or his representative in respect of improvements previously made on such land by the tenant or the person from whom he has inherited.

Survey and Measurement.

Landlord's right to enter and measure lands.

XXVII. Every landlord, his agents and surveyors, may at all reasonable times enter upon any land comprised in his estate for the purpose of surveying and measuring the same.

CHAPTER III.

COMMUTATION AND PAYMENT OF RENT IN KIND.

Commutation of rents in kind.

XXVIII. In any district in which a settlement of revenue is in progress, it shall be in the discretion of any officer employed in making or revising such settlement, in any case in which the rent of a tenant having a right of occupancy is paid in kind, or by the estimated value of a portion of the crop, to commute, on the application either of the landlord or the tenant, such rent into a rent in money.

The amount of rent thus fixed shall be binding upon the parties concerned.

All decisions already passed by any such officer, commuting rents in kind or by valuation to rents in money, shall, subject to the same appeal as is given by this Act in respect of decisions passed in suits, be binding on the parties concerned.

Chief Commissioner may extend Section 28, and declare officers to hear and decide cases thereunder.

XXIX. The Chief Commissioner of Oudh may extend the provisions of Section 28 to any district or portion of a district in which a settlement of revenue is not in progress;

and may declare what officers are empowered to hear and decide cases under this Section;

and may, with the previous sanction of the Governor-General of India in Council, make rules for the guidance of officers acting under

this Section and Section 28, and from time to time, with the like sanction, alter and add to the rules so made :

Provided that such rules, alterations and additions are consistent with this Act.

Division or appraisement of produce taken for rent.

XXX. Wherever rent is taken by division of the produce in kind, or by estimate or appraisement of the standing crop, or other procedure of a similar nature, requiring the presence both of the tenant and landlord either personally or by a recognized agent, if either party neglect to be present at the proper period, or if a dispute arise between the parties regarding such division, estimate or appraisement, either party may present an application to the Court* *on a paper bearing a stamp of eight annas*, requesting that a proper officer be deputed to make the division, estimate or appraisement.

Procedure in case of dispute.

XXXI. On receiving such application, the Court shall issue a written notice to the other party to attend on the date and at the place specified in the notice, and shall depute an officer before whom the division, estimate or appraisement shall be made.

The award of such officer in respect of such division, estimate or appraisement shall be final, unless within one month from the date thereof either party institutes a suit to set it aside.

CHAPTER IV.

ENHANCEMENT AND FIXING RATES OF RENT.

A.—Tenants with Right af Occupancy.

Enhancement of rent of tenant with right of occupancy.

XXXII. No tenant having a right of occupancy in any land shall, in case of dispute as to the rent to be paid in respect of such land, be liable to an enhancement of the rent except in pursuance of a decree made under this Act on some one of the following grounds, (that is to say) :—

1*st Ground.*—That the rate of rent paid by him is below the rate of rent usually paid by the same class of tenants having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding such rate.

2*nd Ground.*—That the rate of rent paid by him is more than 12½ per cent. below the rate of rent usually paid by tenants of the same class not having a right of occupancy, for land of a similar description and with similar advantages, situate in the same village.

Rule.—In this case the Court shall enhance his rent to such amount as the plaintiff demands, not exceeding such rate less 12½ per cent.

3*rd Ground.*—That the quantity of land held by him exceeds the quantity for which he has previously paid rent.

Rule.—In this case the Court shall decree rent for the land in excess, at rates to be fixed by the first or the second of the Rules contained in this Section, as the case may be.

* The words in Italics are repealed by Act VII., 1870, Section 2, Schedule 3.

Nothing contained in the previous part of this Section shall affect the terms of any agreement in writing hereafter entered into between a landlord and tenant.

Term for re-enhancement, after decision fixing rent under Section 32.

XXXIII. After a decision has been passed in accordance with Section 32, no suit shall lie for re-enhancement of such rent until the expiration of five years from the date of such decision, except on the said third ground, or, in the case referred to in Section 34, until, by re-assessment within the said term of five years, the revenue of such land has been increased.

Enhancement on re-assessment of revenue.

XXXIV. On such re-assessment, if the rent of such tenant cannot be enhanced under Section 32 by reason of the absence of the grounds therein mentioned, the landlord may institute a suit to enhance the rent to a sum not exceeding double the average amount of the revenue imposed at such re-assessment upon land of a similar description and with similar advantages, held by tenants of the same class in the same village.

B.—Tenants not having Right of Occupancy.

Court not to enquire into propriety of rate of rent payable by tenant not having right of occupancy.

XXXV. The Court shall in no case enquire into the propriety of the rate payable by a tenant not having a right of occupancy.

The rent payable by such tenant for the land in his occupation shall be such amount as may be agreed upon between him and the landlord; or, if no such agreement has been made, such amount as was payable for the land in the last preceding year.

Suits in which there is evidence in writing of agreement to alter rent.

XXXVI. If in any suit between a landlord and a tenant not having a right of occupancy, the amount of rent payable by such tenant shall be disputed, he shall not be held liable to pay rent other than that payable by him for the last preceding year, unless the Court is satisfied by evidence in writing that the parties have agreed that the rent so payable shall be altered.

CHAPTER V.

EJECTMENT.

General Provisions.

Grounds on which tenant may contest liability to ejectment.

XXXVII. A tenant may contest his liability to be ejected from the land which he holds on any of the following grounds:—

First.—That he holds a lease or an agreement, or a decree of Court, under the terms of which he is not liable to such ejectment:

Second.—That he has a right of occupancy in the land:

Third.—And if he be a tenant not having a right of occupancy, that notice of ejectment has not been served upon him in manner provided by Section 43.

Time of ejectment of tenant.

XXXVIII. No tenant, except a sub-lessor, shall in any case, whether in execution of a decree or otherwise, be ejected from the land in his occupancy, except between the 1st day of April and the 15th day of June in any year after the passing of this Act; unless, while his rent is in arrear, he has failed to

cultivate the land in his possession in accordance with the terms on which he holds it.

Time of ejectment of sub-lessor.

XXXIX. A sub-lessor liable to be ejected under the provisions of this Act may be ejected at any time during his tenancy.

Ejectment for arrears of rent.

XL. Any tenant, other than a sub-lessor, from whom an arrear of rent remains due on the 15th day of May in any year after the passing of this Act, and any sub-lessor from whom an arrear of rent remains due at any time during his tenancy may, subject to the provisions of Sections 38, 39 and 41, be ejected from the land in respect of which the arrear is due.

Tenant with Right of Occupancy.

Ejectment of tenant having a right of occupancy.

XLI. No tenant having a right of occupancy, or holding under an unexpired lease, or special agreement, or decree of Court, shall be ejected otherwise than in execution of a decree for ejectment:

Provided that, if the tenant have a right of occupancy in the land from which the landlord desires to eject him, the decree shall not be made unless, at the date of the decree, a decree against such tenant for an arrear of rent in respect of such land has remained unsatisfied for fifteen days or upwards.

Tenant without Right of Occupancy.

Ejectment of tenant not having a right of occupancy.

XLII. A tenant not having a right of occupancy and not holding under an unexpired lease or an agreement, or a decree of Court, may be ejected in accordance with the provisions of this Act; *first*, in execution of a decree for arrears of rent or for ejectment; or *second*, by notice given by his landlord in the manner described in Section 43.

Notice.

Notice of ejectment of tenant not having right of occupancy.

XLIII. The notice mentioned in Section 42 shall be written in Hindí and in Urdu: it shall specify the land from which the tenant is to be ejected; and it shall inform him that, if he means to dispute the ejectment, he must institute a suit for that purpose on or before the 15th day of May next after the service of the notice, or vacate the land on or before that date.

Service of Notice.

On the application of the landlord to the tahsildar, or officer authorized to serve such notices, the notice shall be served by such officer on or before the 15th day of April in each year, and the landlord shall pay the costs of service.

The notice shall, if practicable, be served personally on the tenant. But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at the village *choupal* or other conspicuous place in the village wherein the land is situate.

Cessation of Tenancy.

If notice is not contested, tenancy to be held to cease.

XLIV. If the tenant on whom such notice of ejectment has been served fails to institute a suit to contest his liability to be ejected, on or before the 15th day of May next after the service, his tenancy of the land in

respect of which the notice has been served shall be held to cease on that date, unless, after the service, the landlord has expressly authorized him to continue to occupy the land.

Assistance to eject.

When assistance to eject may be given by Court.

XLV. If no such suit be brought, and the landlord require the assistance of the Court to eject any person whose tenancy is alleged to have ceased under the provisions of Section 44, he may apply for such assistance, and, if the Court is satisfied that notice of ejectment was duly served on such person, it shall give such assistance accordingly:

Provided that nothing done by the Court under the previous part of this Section shall affect the right of any tenant to institute a suit against his landlord on account of illegal ejectment and to recover compensation for the same.

Growing Crops.

Compensation to ejected tenant for growing crops.

XLVI. Any tenant ejected in accordance with the provisions of this Act, shall be entitled to receive from the landlord the value of any growing crops or other ungathered products of the earth belonging to such tenant, and being on the land at the time of his ejectment:

Provided that, if the land shall have been sown or planted by the tenant after the service on him of the notice mentioned in Section 42, he shall not be so entitled unless, after such service, the landlord has expressly authorized him to continue to occupy the land.

CHAPTER VI.

Distress for Arrears of Rent.

Recovery of arrears of rent by distress.

XLVII. When an arrear of rent is due from any tenant the landlord may distrain the produce of the land in respect of which the arrear is due, subject to the rules contained in the following Sections:

Proviso as to tenants who have given security for payment of rent.

Provided that, when a tenant has given security for the payment of his rent, the produce of the land in respect of which such rent is payable, shall not be liable to distress so long as the security is in force.

No distress in certain cases.

XLVIII. Distress shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable in the last preceding year for the land in respect of which the arrear is due, unless the tenant has agreed in writing to pay such excess, or unless he has been declared to be liable for the same by a decree of Court.

Power of distress by whom exerciseable.

XLIX. The power of distress, vested by Section 47 in landlords, may be exercised by managers under the Court of Wards, managing agents and tahsildars of estates held under khám management, and other persons lawfully entrusted with the charge of land, and also by the agents employed by landlords or any such persons as aforesaid in the collection of rent, if expressly authorized by power-of-attorney to distrain:

Liability of principal of agent.

Provided that, if any such agent, purporting to act in the exercise of the said power, commits an act which, under the provisions of this Chapter, is illegal, the person employing such agent shall be liable, as well as the agent, to be sued for compensation for any injury caused by such act.

Distress by servants.

L. Any person empowered to distrain property under Section 47 or 49, may employ a servant or other person to make the distress; but in every such case he shall give to such servant or person a written authority for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

Crops liable to distress.

LI. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered and deposited in any threshing-floor or place for treading out grain or the like, whether in the field or within a home-stead, may be distrained by persons invested with powers of distress under this Act.

But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due, or of land held under the same agreement as the land in respect of which the arrear is due, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distress under this Act.

Demand of arrear before or at time of distress.

LII. Before or at the time when any distress is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made.

The demand and account shall, if practicable, be served personally on the defaulter, but if he cannot be found, they shall be affixed at his usual place of residence, and shall thereupon be deemed to be duly served upon him.

Value of distress.

Service of list of property to be distrained.

LIII. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value as nearly as may be equal to the amount of the arrear with the costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or if he be absent, affix it at his usual place of residence.

Reaping and storing standing crops when distrained.

LIV. Standing crops and other ungathered products of the earth may, notwithstanding the distress, be reaped or gathered by the tenant, and may be stored in such granaries or other places as are commonly used by him for the purpose.

If the tenant neglect to do so, the distrainer may cause the said crops or products to be reaped or gathered, and, in such case, shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood.

In either case, the distrained property shall be placed in the charge of some proper person appointed by the distrainer for the purpose.

If the crops or products do not, from their nature, admit of being stored, the distress shall be made (if at all) at least twenty days before the time when the crops or products or any part thereof would ordinarily be fit for cutting or gathering.

Application by distrainer in case of resistance.

LV. If a distrainer is opposed or apprehends resistance, and desires to obtain the assistance of a public officer, he may apply to the Court, and the Court may, if it think necessary, depute an officer to assist the distrainer in making the distress.

Withdrawal of distress on tender of arrear and costs.

LVI. If at any time after property has been distrained as aforesaid, and before the sale thereof as hereinafter provided, the owner tenders payment of the arrear demanded and of the costs of the distress, the distrainer shall receive the same and give a receipt therefor, and shall forthwith withdraw the distress.

Application for sale.

LVII. Within five days from the time of storing any distrained crops or products, or if such crops or products do not, from their nature, admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the proper officer authorized to sell property in satisfaction of decrees of the Court within whose jurisdiction the distrained property is situate.

Form of application.

LVIII. The application shall be in writing: it shall contain a list or description of the property distrained, and it shall state the name of the defaulter, his place of residence, the amount due, and the place in which the distrained property is deposited.

Together with the application, the distrainer shall deliver to the proper officer the sum payable for the service of a notice upon the defaulter as hereinafter provided.

Procedure on receipt of application.

LIX. Immediately on receipt of the application, the proper officer shall send a copy of it to the Court, and shall serve a notice in the form contained in Schedule C hereto annexed, or to the like effect, on the person whose property has been distrained requiring him either to pay the amount demanded, or within fifteen days from the receipt of the notice to institute a suit to contest the demand.

The officer shall at the same time send to the Court, for the purpose of being put up at the Court-house, a proclamation fixing a day for the sale of the distrained property, not less than twenty days from the date of the proclamation; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited.

The proclamation shall contain the description of the property, and shall specify the demand for which it is sold, and the place where the sale is to be held.

Suspension of sale on institution of suit.

LX. If a suit is instituted in pursuance of the aforesaid notice, the Court shall send to the proper officer, or, if so requested by the owner of the distrained property, shall deliver to him, a certificate of the institution of the suit.

On such certificate being received by, or presented to, the proper officer, he shall suspend proceedings in regard to the sale:

Provided that, if in his opinion the property distrained is such that delay will cause damage thereto, he may direct its immediate sale.

Suit to contest distrainer's demand.

LXI. Any person whose property has been distrained as aforesaid, may institute a suit to contest the distrainer's demand at any time before the expiration of the fifteen days mentioned in Section 59.

When such suit is instituted, the Court shall proceed in the manner prescribed in Section 60.

If application for the sale of the property is afterwards made to the proper officer, he shall send a copy of the application to the Court; and suspend further proceedings pending the decision of the case.

Withdrawal of distress on execution of bond.

LXII. The person whose property has been distrained, may at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with one or more surety or sureties, for an amount not less than double the value of the property so distrained, binding himself to pay whatever sum may be adjudged to be due from him with costs of suit.

When such bond is executed, the Court shall give to the owner of the property a certificate to that effect, or, if he so requests, shall serve the distrainer with notice of the same.

Upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Court, the property shall be released from distress.

Proceeding with sale, if, on expiration of time fixed, no suit is instituted.

LXIII. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the proper officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as are allowed by him, be discharged in full, proceed, with the sanction of the Court, to sell the property, or such part thereof as may be necessary.

Place and manner of sale.

LXIV. The sale shall be held at the place where the distrained property is deposited, or at the nearest ganj, bazar, or other place of public resort, if the proper officer thinks that it is likely to sell there to better advantage.

The property shall be sold by public auction in one or more lots as the officer holding the sale thinks advisable; and if the demand, with the costs of distress and sale, be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

Postponement of sale where fair price is not offered.

LXV. If on the property being put up for sale, a price which the officer holding the sale shall think fair be not offered, and if the owner of the property or his recognized agent apply to have the sale postponed until the next day, or (if a market be held at the place of sale) until the next market-day, the sale shall be postponed until such day, and shall be then completed at whatever price may be offered.

Payment of purchase-money.

LXVI. The price of every lot shall be paid in ready money at the time of sale, or as soon thereafter as the officer holding the sale thinks fit; and in default of such payment, the property shall be put up again and re-sold.

When the purchase-money has been paid in full, the officer holding the sale shall give the purchaser a certificate stating the property purchased by him and the price paid therefor.

Proceeds of sale.

LXVII. The officer holding the sale shall deduct from the proceeds one anna for every rupee and fraction of a rupee, on account of the expenses attending the sale.

He shall then pay to the distrainer the expenses incurred by him on account of the distress and of the issue of the notice and proclama-

tion of sale prescribed in Section 59, to such amount as, after examination of the statement of expenses furnished by the distrainer, the officer thinks proper to allow.

The remainder shall be applied to the discharge of the arrear for which the distress was made, and the surplus (if any) shall be delivered to the person whose property has been sold.

Officers holding sales not to purchase.

LXVIII. Officers holding sales of property under this Act, and all persons employed by, or subordinate to, such officers, are forbidden to purchase, either directly or indirectly, property sold by such officers.

Illegal acts of distrainer to be reported.

LXIX. The officer mentioned in Section 57 shall bring to the notice of the Court any illegal act which shall come to his knowledge as having been committed by any person in making a distress under this Act.

If in any case, on proceeding to hold a sale under this Act, such officer finds that the owner has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Court, and the Court shall direct the issue of another notice and proclamation of sale under Section 59, or make such other order as it thinks proper.

Recovery of expenses if no sale takes place.

LXX. When such officer has gone to any place for the purpose of holding a sale, and no sale takes place, either for the reason stated in Section 69, or because the distrainer's demand has been previously satisfied, the said charge on account of expenses attending the sale shall be leviable by the officer, and shall be calculated on the value of the distrained property, as estimated by him, unless the distrainer's demand has been satisfied before the day fixed for the sale, and notice of such satisfaction has been given by him to the officer.

If the distrainer's demand be not satisfied until the day fixed for the sale, the charge shall be paid by the owner of the property, and may be recovered by sale of such portion thereof as may be necessary.

In every other case the charge shall be paid by the distrainer, and may be recovered under the warrant of the Court by attachment and sale of his property:

Provided that, in no case shall an amount exceeding ten Rupees be recoverable under this Section.

Second proclamation of sale when arrears are adjudged to be due.

LXXI. When a suit has been instituted to contest a distrainer's demand, and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Court shall issue an order to the proper officer authorizing the sale of the property.

On the application of the distrainer (which shall be made within five days from the receipt of such order by such officer), such officer shall publish a second proclamation in the manner prescribed in Section 59, fixing another day for the sale of the distrained property, not less than five nor more than ten days from the date of the proclamation; and, unless the amount adjudged to be due with costs of distress be paid immediately, shall proceed to sell the property in the manner hereinbefore provided.

Distrainer to prove the arrear in suits to contest his demand.

LXXII. In all suits instituted to contest a distrainer's demand, the defendant must prove the arrear in the same manner as if he had himself brought a suit for the amount under the foregoing provisions of this Act.

If the demand or any part thereof is found to be due, the Court shall make a decree for the amount in favour of the distrainer.

Such amount may be recovered by sale of the distrained property as provided in Section 71, and, if the distress has has not been withdrawn, and if any balance remain due after such sale, by execution of the decree against the person and any other property of the defaulter, or, if the distrained property have been released on security, by execution of the decree against the person and property of the defaulter, and, if his surety has been made a party to the suit, against the person and property of such surety.

Compensation for vexatious distress.

LXXIII. If the distress is adjudged to be vexatious or groundless, the Court, besides directing the release of the distrained property, may award such compensation to the plaintiff as it thinks fit, not exceeding twice the value of the property distrained.

Suit by third party claiming property distrained.

LXXIV. If any person claims, as his own, property which has been distrained for arrears of rent alleged to be due from any other person, the claimant may institute a suit against the distrainer and such other person to try the right to the property, in the same manner, and under the same rules as to the time of instituting the suit and as to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand.

Release on giving security.

LXXV. When any such suit is instituted, the property may be released upon security for its value being given to the satisfaction of the Court.

Order if claim dismissed.

If the claim is dismissed, the Court shall make an order in favour of the distrainer for the sale of the property or the recovery of its value, as the case may be.

Compensation for distress of stranger's property.

If the claim is upheld, the Court shall order the release of the distrained property, and may award such compensation as it thinks fit, not exceeding twice the value of the property distrained.

Landlord's prior claim to distrainable produce in possession of defaulting tenant.

LXXVI. No claim to any produce of land liable to distress under this Act, and found at the time of the distress in the possession of a defaulting tenant, whether such claim be in respect of a previous sale, mortgage, or otherwise, shall bar the landlord's prior claim, nor shall any attachment in execution of a decree of any Civil Court prevail against such claim.

Stranger claiming to be landlord and to have right of distress to be made a party.

LXXVII. Whenever property has been distrained for an arrear of rent, and a suit has been instituted to contest the demand, and the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer, on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him before and up to the commencement of the suit shall be enquired into, and the suit shall be decided according to the result of such inquiry:

Provided that the decision of the Court shall not affect the right of any person having a title to the rent of the land, to establish such title

in a Court of competent jurisdiction, by suit instituted within one year from the date of the decision.

Suit for illegal distress.

LXXVIII. Any person whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, and who is prevented by any sufficient cause from bringing a suit to contest the demand or try the right to the property, as the case may be, within the period allowed by Sections 59 and 74, and whose property is in consequence brought to sale, may institute a suit to recover compensation for any injury which he has sustained from the distress or sale.

Suit for illegal act of distrainer.

LXXIX. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, distrains or sells any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act,

or if any distrained property is lost, damaged or destroyed, by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof,

or if the distress is not immediately withdrawn when any provision of this Act requires such withdrawal—

the owner of the property may institute a suit to recover compensation for any injury which he has thereby sustained.

Suit for distress or sale falsely purporting to be under this Act.

LXXX. If any person not empowered by this Act to distrain or sell, nor duly authorized for that purpose by a person so empowered, purports to distrain or sell any property under this Act, the owner of such property may institute a suit to recover compensation from the person so distraining or selling, for any injury which the plaintiff has sustained from the distress or sale.

Such suit shall not affect the defendant's liability to be prosecuted under any law for the time being in force.

Procedure in case of resistance to distress.

LXXXI. If any person resists a distress of property duly made under this Act, or forcibly or clandestinely removes any distrained property, the Court, upon complaint being made within ten days from the date of such resistance or removal, shall cause the person accused to be arrested and brought before the Court with all convenient speed, and the Court shall proceed forthwith to try the case.

If the case cannot be at once heard and determined, the Court may, if it think fit, require the party arrested to give security for his person, whenever the same may be required, and, in default of such security, may commit him to the civil jail until the case is tried.

Punishment of offender.

LXXXII. If such resistance or removal of property be proved, the Court may order the offender to pay a fine not exceeding 100 Rupees, together with all costs and expenses incurred in the case or in making the distress, and, in default of payment, may order him to be imprisoned in the civil jail until payment is made: Provided that no such imprisonment shall continue for more than six months.

CHAPTER VII.

JURISDICTION OF THE COURTS.

Suits cognizable.

Suits cognizable under this Act.

LXXXIII. The Courts of Revenue in Oudh shall take cognizance of the following descriptions of suits, and such suits shall be heard and determined in the said Courts in the manner provided in this Act, and not otherwise:—

A.—Suits by a Landlord.

(1.)—For the delivery by a tenant of the counterpart of a lease under Section 9;

(2.)—For arrears of rent;

(3.)—For the enhancement of the rent of a tenant having a right of occupancy;

(4.)—For the ejectment of a tenant or for cancelling any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of such lease;

(5.)—Suits by landlords against patwárís or agents employed by landlords in the management of land or the collection of revenue or rent, or against the sureties of such patwárís or agents for money received or accounts kept by such patwárís or agents in the course of such employment, or for papers in their possession, or for the rendering and settlement of accounts.

B.—Suits by an Under-proprietor or a Tenant.

(6.)—For establishing a right of occupancy;

(7.)—For the delivery by a landlord of a lease;

(8.)—For contesting a notice of ejectment;

(9.)—For compensation—

on account of illegal enforcement of payment of rent, or of any sum in excess of rent due,

or on account of the refusal of receipts or acknowledgments for rent paid or tendered,

or on account of illegal ejectment,

or on account of the value of standing crops under Section 46;

(10.)—For the recovery of the occupancy of any land from which an under-proprietor or tenant has been illegally ejected by the landlord;

(11.)—For contesting the exercise of the power of distraint conferred on landlords and others by this Act, or any acts purporting to be done in exercise of the said power, or for compensation for illegal distraint.

(12.)—For abatement of rent in accordance with the provisions of Section 19;

(13.)—For the recovery of compensation for improvements in accordance with the provisions of Section 22.

C.—Suits regarding the Division or Appraisement of Produce.

(14.)—Suits under Section 31, regarding the division, estimate, or appraisement of the produce of land.

D.—Suits by, and against, Lumberdárs, Co-sharers, and Muáfídárs.

(15).—Suits by a sharer against a lumberdár or co-sharer for share of profits of an estate or any part thereof, or for the rendering and settlement of accounts in respect of such profits;

(16.)—Suits by a lumberdár or pattídár who is entitled to collect the rents of the pattí, for arrears of revenue or rent payable through him by the co-sharers whom he represents, and by a lumberdár for village-expenses and other dues for which the co-sharers may be responsible to him, or against a joint lumberdár for compensation for revenue or rent paid by such lumberdár on account of such joint lumberdár;

(17).—Suits by co-sharers against lumberdárs, or proprietors or lessees against muafídárs or assignees of revenue, for compensation on account of exaction in excess of revenue or rent, or on account of the refusal of receipts or acknowledgments for revenue or rent paid or tendered;

(18.)—Suits by muáfídars or assignees of revenue for arrears of revenue.

Grades of Courts.

Grades of Courts for the purposes of this Act.

LXXXIV. For the purposes of this Act, the Courts of Revenue shall consist of six grades, namely.—

(1.)—The Court of the Assistant Collector of the second class;
(2.)—The Court of the Assistant Collector of the first class;
(3.)—The Court of the Deputy Collector;
(4.)—The Court of the Collector;
(5.)—The Court of the Commissioner;
(6.)—The Court of the Financial Commissioner.

Chief Commissioner may declare grade of Tahsildar or Assistant Commissioner.

LXXXV. Subject to any orders that may from time to time be issued by the Governor-General in Council, the Chief Commissioner of Oudh shall have power to declare to which of the first three grades any Assistant Commissioner shall belong, and to invest any Tahsildar with the powers of any of the same grades.

Deputy Commissioner to have Collector's powers.

LXXXVI. The Deputy Commissioner shall exercise the powers of a Collector under this Act.

Settlement Officers may be invested with powers of Collector, &c., under this Act.

LXXXVII. Subject to any orders in this behalf that may from time to time be made by the Governor-General of India in Council, the Chief Commissioner of Oudh may invest any officer employed in making or revising settlements of revenue with all or any of the powers of a Collector, or Deputy Collector, or Assistant Collector under this Act.

Jurisdiction of Assistant Collector of the second class.

LXXXVIII. The Court of the Assistant Collector of the second class shall have power to try and determine suits of the descriptions mentioned in Clauses 1, 2, 7, 12, 15, 16, 17 and 18 of Section 83, of which the subject-matter does not exceed 100 Rupees in value or amount.

Jurisdiction of Assistant Collector of the first class.

LXXXIX. The Court of the Assistant Collector of the first class shall have power to try and determine suits of the descriptions referred to in the last preceding Section of which the subject-matter does not exceed 500 Rupees in value or amount.

Jurisdiction of Deputy Collector.

XC. The Court of the Deputy Collector shall have power to try and to determine suits of every description of which the subject-matter does not exceed 5,000 Rupees in value or amount.

Jurisdiction of Collector.

XCI. The Court of the Collector shall have power to try and determine suits of every description and of any amount, and hear appeals from the decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure as applied by this Act) from the orders, of the Assistant Collectors, and, in suits under Clauses 2, 5, 9, 11, 14, 15, 16, 17 and 18 of Section 83, from such decisions and orders of the Deputy Collectors.

Whenever the state of the public business requires it, the Chief Commissioner may invest any Deputy Collector with the powers of a Collector for the determination of suits and appeals under this Act, other than appeals from the decisions of such Deputy Collector, and may, with the sanction of the Governor-General of India in Council, invest any Collector with all or any of the powers of a Commissioner under this Act.

Jurisdiction of Commissioner.

XCII. The Court of the Commissioner shall have power to hear and determine appeals from decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders, of the Collectors and Deputy Collectors, except as otherwise provided in Sections 91, 95 and 102.

Jurisdiction of Financial Commissioner.

XCIII. The Court of the Financial Commissioner shall have power to hear and determine appeals from the decisions in suits, and (where an appeal is allowed by the Code of Civil Procedure) from the orders, of the Commissioners, and also special appeals as provided in the said Code, from the decisions passed in regular appeal by the Collectors and by the Commissioners.

Appeals.

Time for presenting appeals.

XCIV. The memorandum of appeal, prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, shall be presented to the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall shew sufficient cause, to the satisfaction of such Court, for not having presented the memorandum within such period; that is to say, thirty days if the appeal lie to the Collector, six weeks if the appeal lie to the Commissioner, and ninety days if the appeal lie to the Financial Commissioner.

The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made.

Applications for the admission of special appeals shall be presented in the Court of the Financial Commissioner within the period hereinbefore fixed for the presentation of a memorandum of appeal.

No appeal, except in certain cases, from Collector's decree for money below 100 Rupees.

XCV. In suits under Clauses 2, 5, 9, 11, 14, 15, 16, 17, and 18 of Section 83, and in appeals from decisions in such suits tried and decided by a Commissioner or Collector, if the amount sued for does not exceed 100 Rupees, the judgment shall be final, except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a tenant, or any question relating to a title to land or to some interest in land, as between parties having conflicting claims thereto, has been determined by the judgment.

In such case the judgment shall be open to appeal in the manner provided in this Act.

Distribution of Business.

Deputy Commissioner may distribute business in subordinate Courts.

XCVI. The Deputy Commissioner may direct the business in the Courts subordinate to him, whether or not they hold their sittings in the same place, to be distributed among such Courts in such way as he shall think fit.

Transfer of Suits and Appeals.

Transfer of suits from subordinate Courts to Commissioner's or Collector's Court.

XCVII. The Commissioner or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself, or refer it for trial to any other such Court competent to try the same.

Withdrawal or reference of appeals.

The Commissioner may also withdraw any appeal instituted in the Court of any Collector subordinate to him, and try the appeal himself or refer it for trial to the Court of any other Collector in his Division.

Financial Commissioner may transfer suits and appeals from one subordinate Court to another.

XCVIII. The Financial Commissioner may order that any suit or appeal which shall be instituted in or presented to any Court subordinate to him shall be transferred to any other such Court competent to try or hear the subject-matter of the same.

Miscellaneous.

General subordination of Courts.

XCIX. In the performance of their duties under this Act, the Collectors shall be subject to the direction and control of the Commissioners and of the Financial Commissioner, and the Deputy Collectors and Assistant Collectors shall be subject to the direction and control of the Deputy Commissioners to whom they are respectively subordinate:

Proviso.

Provided that nothing in this Section shall empower the Financial Commissioner or any Commissioner or Deputy Commissioner to interfere in any way not authorized by this Act with any decision or order in a suit.

Suits by or against managing agents or tahsildárs of khám estates.

C. All suits which, under the provisions of this Act, may be brought by or against landlords, may be brought by or against managing agents or tashíldárs of estates held under khám management, whether such estates are the property of Government or not.

Sharer to exercise certain powers only through manager or lumberdár.

CI. No sharer in a joint estate, under-proprietary or other tenure, in which a division of land has not been made among the sharers, shall exercise any of the powers conferred by this Act in regard to the recovery of arrears of rent, enhancement of rent, ejectment of tenants or distress, otherwise than through a manager authorized to collect the rents on behalf of all the sharers.

In pattídárí estates or tenures such powers shall be exercised only through a lumberdár, or through the pattídár who is entitled to collect the rents of the pattí.

Recovery of land of which applicant has been illegally dispossessed.

CII. If any landlord, under-proprietor or tenant has, without his consent, been dispossessed of any land otherwise than by due course of law, such landlord, under-proprietor or tenant, or any person claiming through him, shall be entitled to recover possession thereof notwithstanding any other title has been set up, provided that he makes application to the Court to recover possession of the land within three months from the time of the dispossession.

But nothing in this Section shall bar the person from whom possession has been so recovered, or any other person, from instituting a suit to establish his title to such land and to recover possession thereof.

The application mentioned in the first clause of this Section shall be heard by the Collector or Deputy Collector only, and no appeal shall lie from any order passed thereon, nor shall any review of such order be allowed.

Courts may sit anywhere within limits of their jurisdiction.

CIII. The Courts may sit for the hearing and determining suits and appeals, and for disposing of other business under this Act, in any place within the local limits of their respective jurisdictions:

Provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

CHAPTER VIII.

LIMITATION OF SUITS.

General limitation.

CIV. Except as herein otherwise provided, and subject to the provisions as to legal disability contained in any law for the limitation of suits for the time being in force in Oudh, all suits under this Act shall be instituted within one year from the date of the accruing of the cause of action.

Suits for delivery of leases or counterparts.

CV. Suits for the delivery of leases or the counterparts of leases may be instituted at any time during the tenancy.

Suits for arrears of rent or revenue, or share of profits.

CVI. Suits for the recovery of arrears of rent or revenue, or of a share of profits, shall, except in the case mentioned in Section 16, be instituted within three years from the date on which the arrear or share of profit claimed shall have become due.

Suits against agents for money, or delivery of accounts or papers.

VII. Suits for recovery of money in the hands of an agent, or for the settlement of accounts or delivery of papers by an agent, may be brought at any time during the continuance of the agency, or within one year after its determination, or, in the case of claims legally cognizable at the date of the passing of this Act, within one year after such date.

Suits regarding distress, division of produce, &c.

CVIII. Suits regarding distress under Section 74, 78, 79 or 80, and suits regarding the division, estimate, or appraisement of the produce of land, shall be commenced within three months from the date of the accruing of the cause of action.

CHAPTER IX.

PROCEDURE.

Civil Procedure Code to be the procedure under this Act.

CIX. Subject to the exceptions and provisoes under which the Code of Civil Procedure was extended to Oudh, as contained in the notification republished in Schedule D hereto annexed, the provisions of the said Code shall, so far as they are not inconsistent with the provisions herein contained, apply to all suits, appeals and proceedings under this Act:

Provided that the said notification shall be read as if the words "Financial Commissioner" were substituted for the words "Judicial Commissioner," and that Section 244 of the said Code shall be read as if, for the word "Court," the word "Commissioner" were substituted:

Provided, also, that the words "ancestral property" in the said notification shall be held to include the property in land of persons admitted to engagement for the land-revenue at the summary settlement of 1858-59.

Particulars to be added to plaint.

CX. In addition to the particulars required by Section 26 of the said Code to be specified in the plaint, the plaint shall contain the following particulars:—

1*st.*—The name of the village or estate, and of the pergunnah, in which the land to which the suit relates is situate;

2*nd.*—If the suit be for the recovery of an arrear of rent, or for the enhancement or abatement of rent, or for the ejectment of a tenant, or for contesting a notice of enhancement of rent, or for contesting a notice for the ejectment of a tenant, or for the recovery of the occupancy or possession of any land, the plaint shall specify the extent, situation and designation of the land to which the suit relates, and, where fields have been marked in a Government survey, the number (if it be possible to give it) of each field.

3*rd.*—If the suit be for the recovery of an arrear of rent or revenue, the plaint shall specify the yearly rent or revenue of the land, the amount (if any) received on account of the year or years for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due;

4*th.*—If the suit be for the delivery of a lease or the counterpart of a lease, the plaint shall specify the particulars mentioned in Section 7.

Third person claiming rent to be made a party.

CXI. When in any suit between a landlord and an under-proprietor or tenant, the right to receive the rent of the land is claimed by a third person, on the ground that he, or a person through whom he claims, has actually and in good faith received and enjoyed such rent up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by him or the person through whom he claims shall be enquired into, and the suit shall be decided according to the result of such inquiry:

Provided, always, that the decision of the Court shall not affect the right of any party having a legal right to the rent of such land to establish his title thereto in a Court of competent jurisdiction.

Summons to defendant to be for final disposal.

CXII. In all suits under this Act, the summons to the defendant shall be for the final disposal of the suit.

Set-off in suits for arrears of rent.

CXIII. In a suit to recover an arrear of rent, no set-off shall be allowed against the claim, except such amount as may be due to the defendant on an unexecuted decree under this Act against the plaintiff.

Defendant may pay money into Court.

CXIV. In any suit under this Act involving a claim to money, the defendant may, at any stage of the suit, deposit in Court such sum of money as he considers a satisfaction in full of the plaintiff's claim, together with the costs incurred by the plaintiff up to the time of such deposit.

Notice of the deposit shall be given to the plaintiff, and the amount deposited shall be paid to him on his application.

No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

Procedure for balance where defendant pays less than amount claimed.

CXV. In any case in which the defendant deposits less than the amount claimed by the plaintiff, nothing in Section 114 shall bar the plaintiff from proceeding in the suit for the recovery of the balance.

Dismissal of suit for lease or counterpart, in absence of written evidence of agreement.

CXVI. If a tenant not having a right of occupancy institute a suit against a landlord for the delivery of a lease, or a landlord institute a suit against a tenant not having a right of occupancy for the delivery of the counterpart of a lease, and the parties do not agree in respect of the particulars which such lease or counterpart is to contain, the Court shall dismiss the suit, unless evidence in writing is produced which shall satisfy the Court that an agreement has been entered into between the parties in accordance with which such lease or counterpart ought to be delivered.

Collector may make local enquiry.

CXVII. The local enquiry described in Section 180 of the Code of Civil Procedure may also, if he think fit, be made by the Collector in person or other officer presiding in the Court, and the provisions of the said Code regarding local inquiries shall apply to such inquiries made by such Collector or other officer.

In such cases the Collector or other officer as aforesaid, after completing the inquiry, shall record on the proceedings such observations as he thinks fit, and the observations so recorded shall be received as evidence in the suit.

As to Decrees.

Time within which execution may be had.

CXVIII. No process of execution shall be issued on a decree under this Act after the lapse of three years from the date of such decree.

Immediate execution of decree.

CXIX. When a decree for money is made in any suit under this Act, the Court may, on the oral application of the party in whose favour the decree is passed, direct immediate execution thereof in the manner described in Section 13 of Act XXIII. of 1861 *(to amend Act VIII. of* 1859.*)*

Decree for enhancement to state date from which it is to take effect.

CXX. When a decree in favour of the plaintiff is made in a suit or an enhancement of rent, the Court shall declare the date from which such enhancement shall take effect.

CXXI. If the decree be for the delivery of papers or accounts,

Enforcement of decree for delivery of papers or accounts.

it may be enforced by the imprisonment in the civil jail of the party against whom it is made, or by the attachment of his property, or by both imprisonment and attachment.

The imprisonment and attachment may be continued until he complies with the terms of the decree:

Provided that no person shall be imprisoned under this Section for a longer period than six months.

Decrees for lease or counterpart to specify particulars.

CXXII. A decree for the delivery of a lease or of the counterpart of a lease shall specify all the particulars mentioned in Section 7, and such other particulars as to the Court seem fit.

Court after decree may grant lease or counterpart, in case of defendant's refusal.

CXXIII. If the decree be for the delivery of a lease or the counterpart of a lease, and the party ordered to deliver such lease or counterpart neglects or refuses so to do, the Court may grant a lease or counterpart in conformity with the terms of the decree, and such lease or counterpart shall have the same effect as if delivered by the party against whom the decree was passed.

Execution to be first made against moveable property.

CXXIV. If the decree be for money, no process in execution shall issue against the immoveable property of the judgment-debtor, other than attachment of such property, unless satisfaction of the decree cannot be obtained against his moveable property.

Sale of under-proprietary right in execution of decree for arrears of rent.

CXXV. If the decree be for an arrear of rent due in respect of an under-proprietary right, the interest of the judgment-debtor in such right may, subject to the provisions of this Act, be sold in execution of the decree:

Provided that no such sale shall be allowed unless it appear to the Deputy Commissioner that satisfaction of the decree cannot be made in the manner referred to in Sections 243 and 244 of the Code of Civil Procedure.

If it appear to the Court that such satisfaction can be made, the Court may exercise the powers given to to it by the said Section 243; although no application has been made by the judgment-debtor.

Appointment of Deputy Commissioner as manager.

The Deputy Commissioner may be appointed manager under the same Section. When he has been so appointed, he may exercise, for the satisfaction of the decree against the judgment-debtor, all the powers which, under any law in force in Oudh, he might have exercised for the recovery of an arrear of revenue due by such judgment-debtor to the Government.

Registration of incumbrance created by under proprietor.

CXXVI. No beneficial lease or other incumbrance hereafter created on his tenure by any under-proprietor shall be valid, in the event of the sale of his rights and interests in execution of a decree for arrears of rent, unless such incumbrance has been registered, under any rules or law for the time being in force in Oudh, within four months after the creation thereof, and not less than thirty days before the date of attachment of such rights and interests.

Proprietor's lien for rent payable by under-proprietor.

CXXVII. When an under-proprietor creates any such incumbrance, and fails to pay to the proprietor all or any part of the rent subsequently accruing in respect of the land subject to the incumbrance, the incumbrancer

shall be liable to pay to the proprietor the whole or such part as aforesaid of the said rent, unless the proprietor has agreed in writing to waive any claim which he might otherwise have made on the incumbrancer under this Section.

Right of pre-emption at execution-sales.

CXXVIII. When land is sold in execution of a decree under this Act, and the land or any lot thereof has been knocked down to a stranger, any co-sharer, other than the judgment-debtor, may, before sunset on the day of sale, claim to take the land or lot, as the case may be, at the sum at which it was so knocked down.

If the land be an under-proprietary tenure, a like claim may also be made by the proprietor.

Any claim made under this Section shall be allowed: Provided that, if a claim to the same land or lot be made by a proprietor as well as by a co-sharer, the claim of the co-sharer shall be preferred: Provided, also, that no claim shall be allowed unless the claimant fulfil all the conditions of the sale binding on a purchaser.

SCHEDULE A.*

(*See Section* 15.)

I, *A. B.*, of————&c., solemnly declare that I did personally [*or* by my agent *C. D.*] on the————day of————tender payment to *E. F.* at ————(the place where the { revenue / rent } of the lands at————, held [*or* cultivated] by me under [*or* from *or* jointly with] the said *E. F.*, are usually payable) of the sum of rupees————as and for the whole amount due from me in respect of the { revenue / rent } of the said lands from the month of————to the month of————both inclusive. I further declare that the said *E. F.* refused to accept the said sum so tendered [*or* to give me a receipt in full, forthwith, for the sum so tendered]. And I declare that, to the best of my belief, the sum of rupees ————so tendered, and which I now desire to pay into Court, is the full amount which I owe the said *E. F.* on account of the { revenue / rent } of the said lands from the month of————to the month of————both inclusive, and that I owe the said *E. F.* no further sum on account of the { revenue / rent } of the said lands.

I, the person named in the above declaration, do declare that what is stated therein is true to the best of my information and belief.

SCHEDULE B.†

(*See Section* 15.)

Court of the————of————dated the————day of——18——.
To *E. F.*, of————&c.

With reference to the within declaration, you are hereby informed that the sum of rupees————therein mentioned, is now in deposit in this Court, and that the above sum will be paid to you or your duly authorized agent on application. And take notice that if you have any further claim or demand whatsoever to make against the said A. B. in respect of the rent of the said lands, you must institute a suit in Court for the establishment of such claim or demand within six calendar months from this date, otherwise your claim will be for ever barred.

* If this declaration is made by an agent, it must be altered accordingly.

† This is to be by endorsement on a copy of the declaration under Schedule A made by the person paying the money into Court.

SCHEDULE C.

(*See Section* 59)

Office of———officer appointed to sell distrained property.

A. B.—Distrainer.

Whereas the said *A. B.* has applied to have the distrained property specified below sold for the recovery of——— ———alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said *A. B.*, or to institute a suit before the Court to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

*Dated this——— ———day of——— ———*18—.

SCHEDULE D.

(*See Section* 109.)

Under the provisions of Section 385 of Act VIII. of 1859, and Section 3 of Act IV. of 1860, His Excellency the Governor-General in Council is pleased to notify that, from 1st January, 1862, Act VIII. of 1859 is extended to the Province of Oudh, subject to the following exceptions and provisoes :—

1. Section 3 shall be subject to the following proviso :—

Provided that the Judicial Commissioner or any other Court exercising any appellate jurisdiction within the Province of Oudh, may, at any time within one year from the time of the passing or execution of any judgment or order by any Court subordinate to the said Appellate Court, call for such judgment or proceedings without any regular appeal or application for review having been preferred against the same, and may, if he or it shall see sufficient grounds, revise and alter, or reverse or confirm, the same. But that in such case, before revising, altering or reversing any one judgment or order, the said Judicial Commissioner, or it, shall cause the same notice to be given to the party in whose favour the said judgment or order was pronounced, and the same opportunity to such party to be heard in support thereof, and the same proceedings to be taken as if a memorandum of appeal had been filed by the party aggrieved thereby

2. Section 17 is excepted, and the term recognized agent is defined as follows, *viz*, a permanent servant, partner, relation, or friend, whom the Court may admit as a fit person to represent a party, and especially persons holding powers-of-attorney from absent parties, persons carrying on business on behalf of bankers and traders, managing agents of landholders, nearest, male relations of women, and persons *ex-officio* authorized to act for Government, or for any Prince or Chief.

3. Section 111 shall be subject to the following limitation:—It shall not be obligatory on the Court to decide *ex-parte* in the absence of defendant, but the Court may proceed to compel his attendance under the following rule, being the rule now in force in Oudh :—

Rule.—If the defendant does not appear, it shall be at the discretion of the Court to issue a warrant to arrest him and detain him till another day appointed for the hearing of the case, and to attach his property.

4. Section 172.—So much of this section as requires that the whole of the evidence shall be taken down in writing in the language in ordinary use is excepted, and the record made by the hand of the Judge, under the following rule, being the rule now in force in Oudh, shall be taken as a record of the evidence:—

Rule.—An intelligible note of the essential points of the evidence of each witness is to be taken at the time and in the course of oral examination by the officer who tries the case, in his own language. The notes must be legible, complete, and properly arranged, must attest the presence of the witness at the time, and mark every postponement and change of time and scene, so that their *bonâ fide* character may be apparent. Every essential point must be noted, but mere surplusage may be omitted. These notes shall be filed, and shall form part of the record of the case: Provided that in cases tried by a European officer, who has not passed the examination in the Native languages prescribed for Assistant Commissioners exercising special powers, the evidence of witnesses shall also be recorded at length in their own language.

Section 205.—So much of this section as renders land liable to sale in execution of a decree, will be subject to the restrictions on the sale of land prescribed by the following rule, being the local rule now in force in Oudh :—

Rule—No ancestral property in land shall be sold in satisfaction of a decree, without the sanction of the Judicial Commissioner; and before acquired property in land shall be so sold, the permission of the Divisional Commissioner shall be obtained.

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ACT No. XXI. OF 1868.

1. Appointment of Receiver of Carnatic property.
2. Remuneration of Receiver.
3. Suspension or removal of Receiver.
4. Receiver to represent Nawab's estate in all proceedings.
5. Receiver to collect Nawab's property.
6. Conveyance on sale by Receiver of immoveable property.
7. In case of suit for administration. Receiver to be subject to orders of High Court.
8. Commencement of Act.

An Act to appoint a Receiver of the property of the late Nawáb of the Carnatic.

Preamble.

Whereas certain property belonging to the estate of the late Nawáb of the Carnatic has lately been discovered both in the Districts of Madras and in the territories of His Highness the Nizám, and it is expedient to appoint a Receiver to collect and administer such property and any other property belonging to the said estate which may hereafter be discovered, or has not hitherto been administered; It is hereby enacted as follows:

Appointment of Receiver of Carnatic property.

I. The Governor of Fort St. George in Council shall appoint such person as he may think fit to act under the orders of the High Court of Judicature at Madras in the administration of the property left by the late Nawáb of the Carnatic, and not hitherto collected or administered.

The person so appointed shall have power to collect and take possession of all such property; he shall deal with the same according to the provisions herein contained: he shall give such security (if any) for the due execution of his office as the said Governor in Council may require; and he shall be called "the Receiver of the Carnatic property."

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Remuneration of Receiver.

II. The Receiver of the Carnatic property shall be entitled to such commission not exceeding five *per centum* upon the amount or value of the property collected and distributed under the provisions of this Act as the said Governor in Council shall prescribe. Such commission shall be charged to the estate of the said Nawáb.

Suspension or removal of Receiver.

III. The said Governor in Council may suspend or remove any person appointed such Receiver as aforesaid, and may also from time to time fill up any vacancy in such office occasioned by death, resignation, suspension, or removal.

Receiver to represent Nawáb's estate in all proceedings.

IV. The Receiver shall represent the estate of the said Nawáb in all proceedings relating thereto: he shall do all acts in performance of his duties by his name of office; and in all legal proceedings he shall be designated by such name.

No proceedings to which the Receiver may be a party shall abate by reason of the death, resignation, suspension, or removal from office of any such Receiver, but the same shall be continued by his successor, as if no such death, resignation, suspension; or removal had occurred.

Receiver to collect Nawáb's property.

V. The Receiver shall have power to collect and take possession of all property, moveable or immoveable, and whether of the nature of State or public property or not, to which the said Nawáb at the time of his death was entitled, and if necessary to sue for and recover the same property, and to realize its value by sale or otherwise.

Conveyance on sale by Receiver of immoveable property.

VI. Whenever the said Receiver by the order or with the sanction of the said High Court sells any of the said immoveable property, he shall execute a conveyance thereof to the purchaser.

Every such conveyance shall be valid as against the heirs of the said Nawáb, and all persons claiming under them, and also against all persons claiming under the said Nawáb by virtue of any conveyance or instrument declared by the said Court or by the late Supreme Court of Judicature at Madras, to be void as against the creditors of the said Nawáb, or by virtue of any security, the benefit of which was barred under the provisions of Act XXX. of 1858 *(to provide for the administration of the estate and for the payment of the debts of the late Nawáb of the Carnatic.)*

In case of suit for administration, Receiver to be subject to orders of High Court.

VII. Upon any suit being instituted for the administration of the said estate; the said Receiver shall be deemed subject to the orders of the said High Court, and, so far as such orders shall not extend, to the general practice of such Court in the same manner as any other Receiver specially appointed thereby, except that the Court shall not require him to give security.

Commencement of Act.

VIII. This Act shall be deemed to have come into operation on the 2nd day of April, 1868, and any person holding the office of Receiver of the Carnatic, property immediately before that day shall be deemed to have been appointed on that day under this Act.

Act No. XXIII. of 1868.

An Act to give validity to certain Abkárí Rules in British Burmah.

Preamble.

Whereas Rules for the sale in British Burmah of wine, beer, spirituous and fermented liquors, and intoxicating drugs, have, from time to time, been made and published under the authority of the Chief Commissioner of British Burmah; and it is expedient to give such Rules, as last published under the authority aforesaid, the force of law; It is hereby enacted as follows:

Validation of Abkárí Rules published in British Burmah Gazette of 29th February, 1868.

I. The Rules for the sale of wine, beer, spirituous and fermented liquors, and intoxicating drugs in British Burmah, published in the number of the *British Burmah Gazette* dated the 29th day of February, 1868, shall, from the 31st day of March, 1868, down to the passing of this Act, be deemed to have had the force of law, and shall continue in force until the Governor-General of India in Council by notification in the *Gazette of India* shall otherwise order.

II. *Repealed by the Repealing Act XIV.*, 1870.

Indemnification of officers and farmers.

III. All officers, farmers, and other persons are hereby indemnified for anything done before the passing of this Act, which might lawfully have been done, if this Act had been in force; and no suit or other proceeding shall be maintained against any such officer, farmer, or other person in respect of anything so done.

Act No. XXIV. of 1868.

An Act to prohibit the practice of inoculation in Kumaon and Garhwál.

Preamble.

Whereas it is expedient to prohibit the practice of inoculation with the small-pox in the districts of Kumaon and Garhwál; It is hereby enacted as follows:

Penalty for inoculating.

I. Whoever produces or attempts to produce in any person by inoculation with variolous matter, or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding three months, or to fine not exceeding 200 Rupees, or to both.

Penalty on inoculated person entering place to which Act extends.

II. If any person having been inoculated with the small-pox in a place to which this Act does not extend, shall afterwards enter any place to which this Act extends, before the date of forty days from the date of such inoculation, or without a certificate from a qualified Medical Officer that such person is no longer likely to cause contagion, such person shall be liable, on conviction before a Magistrate, to imprisonment for a period not exceeding three months, or to a fine not exceeding 200 Rupees, or to both.

Reward to informer.

III. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half of such fine to the person on whose information the offender has been convicted.

Extent of Act.

IV. This Act extends only to the districts of Kumaon and Garhwál.

ACT No. XXV. OF 1868.

1. Short Title. Commencement of Act.
2. Grades of Courts in Coorg.
3. Power to declare grades of Súbahdárs and Assistant Superintendents.
4. Power to invest Párbatiyagárs and Naib Subahdars with jurisdiction up to fifty Rupees.
5. Jurisdiction of Súbahdárs of first class.
6. Jurisdiction of Súbahdárs of second class.
7. Jurisdiction of Assistant Superintendent of second class.
8. Jurisdiction of Assistant Superintendent of first class.
9. Jurisdiction of Superintendent.
10. Jurisdiction of Judicial Commissioner.
11. Time for presenting appeals.
12. Extraordinary original jurisdiction of Judicial Commissioner.
13. Judicial Commissioner to superintend and to frame rules of practice for subordinate Courts.
14. Governor-General in Council may confer powers of Superintendent or Assistant Superintendent.
15. Court in which suit shall be instituted.
16. Appeal to lie from all decisions, except when expressly prohibited.
17. Distribution of business among subordinate Courts.
18. Local limits within which Appellate Courts shall exercise appellate jurisdiction.
19. Transfer of suits from subordinate Court to that of the Superintendent or Assistant.
20. Transfer of suits from one subordinate Court to another.
21. Superintendent to be chief officer charged with executive administration of district in criminal matters.
22. Power to appoint Sessions Judge of Coorg.
23. Appeal from sentences of Superintendent and other officers vested with full powers.
24. Repealed.
25. Extension of Code of Criminal Procedure.

An Act to define the jurisdiction of the Courts in Coorg.

Preamble.

Whereas it is expedient to define the jurisdiction of the Civil and Criminal Courts in the Province of Coorg; It is hereby enacted as follows:

Short Title.

I. This Act may be called "The Coorg Courts' Act."

Commencement of Act.

This Section and Section 25 shall take effect at once, and the rest of this Act shall come into operation on the 1st day of December, 1868.

Grades of Courts in Coorg.

II. There shall be six grades of Civil Courts in the Province of Coorg, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act hereafter passed by the Governor-General of India in Council, (that is to say):—

(1.)—The Court of the Súbahdár of the second class:
(2.)—The Court of the Súbahdàr of the first class:
(3.)—The Court of the Assistant Superintendent of the second class:
(4.)—The Court of the Assistant Superintendent of the first class:
(5.)—The Court of the Superintendent; and
(6.)—The Court of the Judicial Commissioner.

The Criminal Courts in the said Province shall be those referred to in the Code of Criminal Procedure.

Civil Jurisdiction.

Power to declare grades of Subahdars and Assistant Superintendents.

III. Subject to any orders that may from time to time be issued by the Governor-General of India in Council, the Commissioner of Coorg shall have power to declare to which of the said grades any Súbahdár and any Assistant Superintendent shall belong.

Power to invest Parbatiyagars and Naib Subahdars with jurisdiction up to fifty Rupees.

IV. The Commissioner may invest any Párbatiyagár and any Náib Súbahdár with power to try and determine suits for money due whether on bond or other contract or for rent, or for moveable property, or for the value of such property, or for damages, when the

debt, damage, or demand does not exceed in amount or value the sum of fifty, Rupees and to prescribe the local limits within which the Párbatiyagár or Náib Súbahdár so invested shall exercise such power.

Jurisdiction of Subahdar of second class.

V. The Court of the Súbahdár of the second class shall have power to try and determine suits of every description in which the subject-matter does not exceed 100 Rupees in value or amount.

Jurisdiction of Subahdar of first class.

VI. The Court of the Súbahdár of the first class shall have power to try and determine suits of every description in which the subject-matter does not exceed 300 Rupees in value or amount.

Jurisdiction of Assistant Superintendent of second class.

VII. The Court of the Assistant Superintendent of the second class shall have power to try and determine suits of every description in which the subject-matter does not exceed 1,000 Rupees in value or amount, and, subject to the provisions and limitations hereinafter prescribed, to hear and determine appeals from the original decisions in suits, and (where an appeal is allowed by the rules of procedure) from the orders of the Courts of the Súbahdárs of the first and second classes respectively, and of Párbatiyagárs or Náib Súbahdárs invested as aforesaid.

Jurisdiction of Assistant Superintendent of first class.

VIII. The Court of the Assistant Superintendent of the first class shall have power to try and determine suits of every description in which the subject-matter does not exceed 3,000 Rupees in value or amount, and, subject to the provisions and limitations hereinafter prescribed, to hear and determine appeals from the original decisions in suits, and (where an appeal is allowed by the rules of procedure for the time being in force in Coorg) from the orders of the Courts of the Súbahdárs of the first and second classes respectively, and of Párbatiyagárs or Náib Súbahdárs invested as aforesaid.

Jurisdiction of Superintendent.

IX. The Court of the Superintendent shall have power to try and determine suits of every description and of any amount, and to hear and determine appeals from the original decisions in suits, and (where an appeal is allowed by the said rules of procedure) from the order of the Courts of Súbahdárs and Assistant Superintendents of both classes respectively, and of Parbatiyagars or Naib Súbahdárs invested as aforesaid.

Jurisdiction of Judicial Commissioner.

X. The Court of the Judicial Commissioner shall have power to hear and determine appeals from the original decisions of the Superintendent in suits, and where an appeal is allowed by the said rules of procedure) from the orders of the Superintendent, and also special appeals from the decisions passed by the Superintendent or by an Assistant of either grade on regular appeal:

Provided that such special appeals shall lie on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error of defect in law in the procedure or investigation of the case, which may have produced error or defect in the decision of the case upon the merits, and on no other grounds:

Provided, also, that no special appeal shall lie from any decision or order passed on regular appeal after the passing of this Act, in any suit

of the nature cognizable in the Court of Small Causes under Act XI. of 1865, Section 6, when the debt, damage, or demand for which the original suit is instituted does not exceed 300 Rupees; but every such order or decision shall be final.

Time for presenting appeals.

XI. The memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure shall be presented in the Court empowered to hear an appeal within the period hereinafter specified, unless the appellant shows sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within such period, that is to say, thirty days if the appeal lie to the Assistant Superintendents or Superintendent, and ninety days if the appeal lie to the Judicial Commissioner.

The said period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made.

Special appeals shall be presented in the Court of the Judicial Commissioner within the period hereinbefore fixed for appeals.

Extraordinary original jurisdiction of Judicial Commissioner.

XII. The Court of the Judicial Commissioner shall have power to remove and to try and determine as a Court of extraordinary original jurisdiction, any suit within the jurisdiction of any Court in the said Province, when he thinks proper to do so, either on the agreement of the parties to that effect, or for purposes of justice, the reasons for so doing being recorded on the proceedings of his Court.

Judicial Commissioner to superintend and to frame rules of practice for subordinate Courts.

XIII. The Judicial Commissioner shall have superintendence over all Courts in the said Province, and shall have power to call for returns, and to make and issue general rules for regulating the practice and proceeding of such Courts, and also to prescribe forms for every proceeding in the said Courts for which he thinks necessary that a form be provided, and also for keeping all books, entries and accounts to be kept by the officers, and also settle tables of fees to be allowed to the attorneys, vakeels, and all clerks and officers of such Courts, and from time to time to alter any such rule, form, or table.

The rules, forms, and tables so made, framed and settled, shall be used and observed in the said Courts: Provided that such rules, forms, and tables be not inconsistent with the provisions of any law in force for the time being, and shall before they are used have received the sanction of the Commissioner.

Governor-General in Council may confer powers of Superintendent or Assistant Superintendent.

XIV. Whenever the state of the public business requires it, the Governor-General of India in Council may invest any person with the powers of a Superintendent or Assistant Superintendent in any part of the Province of Coorg.

Court in which suit shall be instituted.

XV. Every suit shall be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes which may hereafter be established, shall be heard and determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

Appeal to lie from all decisions, except when expressly prohibited.

XVI. Except when otherwise provided in any law for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Distribution of business among subordinate Courts.

XVII. The Superintendent may direct the business in the Courts subordinate to him, whether or not they have their sittings in the same place, to be distributed among such Courts in such way as he thinks fit: Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

Local limits within which Appellate Courts shall exercise appellate jurisdiction.

XVIII. The Superintendent shall from time to time, with the concurrence and approval of the Commissioner, prescribe to each of the Appellate Courts subordinate to him such local limits within which they shall respectively exercise their appellate jurisdiction.

Transfer of suits from subordinate Court to that of the Superintendent or Assistant.

XIX. The Superintendent may, on the petition of either party, or in the absence of such petition, withdraw any suit instituted in any Court subordinate to him, and try such suit himself or refer it for trial to any other such subordinate Court, and competent in respect of the value or amount of the suit to try the same.

The Superintendent may also withdraw any appeal instituted in the Court of any Assistant Superintendent subordinate to him, and try the appeal himself or refer it for trial to the Court of any other Assistant Superintendent in his province.

Transfer of suits from one subordinate Court to another.

XX. The Judicial Commissioner may order that the cognizance of any suit or appeal instituted in any Court subordinate to his Court, not being a Court of Small Causes, shall be transferred to his own Court or to any other such subordinate Court competent in respect of the value or amount of the subject-matter of the suit or appeal to try the same.

Criminal Jurisdiction.

Superintendent to be chief officer charged with executive administration of district in criminal matters.

XXI. For purposes of criminal jurisdiction, the Superintendent of Coorg shall be taken to be the chief officer charged with the executive administration of a district in criminal matters.

Power to appoint Session Judge of Coorg.

XXII. The Governor-General of India in Council may from time to time appoint any subject of Her Majesty to be Sessions Judge of Coorg, and may also suspend or remove any person so appointed.

The Sessions Judge shall, as often as may be necessary for the trial of offenders, hold Sessions in the said Province: Provided that he and the Judicial Commissioner respectively may hear and determine appeals beyond the limits of the same Province.

Appeals from sentences of Superintendent and other officer vested with full powers.

XXIII. Appeals from sentences and orders passed by the Superintendent or by any officer subordinate to him exercising full powers of a Magistrate, from which an appeal is allowed under the Code of Criminal Procedure, shall lie to the Judicial Commissioner, and shall be heard and determined by him:

Provided that nothing herein contained shall be deemed to prevent the Judicial Commissioner from exercising under the said Code all or any of the powers of the High Court vested in him.

XXIV. *Repealed by the Repealing Act XIV.*, 1870.

Extension of Code of Criminal Procedure.

XXV. The Code of Criminal Procedure shall extend to the said Province, and shall be deemed to have been in force therein from the 9th day of December, 1862.

ACT No. XXVI. OF 1868.

An Act to enable Municipalities to provide for Lock-Hospitals.

Preamble.

Whereas it is expedient to enable all Municipalities in British India to provide out of the municipal funds for the maintenance of Lock-Hospitals and generally for the prevention of contagious venereal disease; It is hereby enacted as follows:

Power to Municipal Committees to devote funds to maintaining Lock-Hospitals, &c.

I. Notwithstanding anything contained in any Act of the Governor-General of India in Council, of the Governor of Madras in Council, of the Governor of Bombay in Council, of the Lieutenant-Governor of Bengal in Council, or in any other law for the time being in force,

it shall be lawful for every Municipal Corporation, Municipal Committee, or other body of persons duly appointed to conduct the affairs of a municipality in British India to pay, with the previous sanction of the local Government, out of the funds at their disposal

towards the maintenance of the hospital provided under Section 12 of Act XIV. of 1868 *(for the prevention of certain contagious diseases)* within the limits of the place for which they are so appointed

and towards defraying the cost of the medical treatment, lodging, clothing, and food of the women detained in such hospital, and of the allowance provided under Section 19 of the same Act for the subsistence of prostitutes residing within the limits aforesaid,

such part as may from time to time be agreed on by and between the Corporation, Committee or Body and the local Government of the total cost of the said maintenance, treament, lodging, clothing, food and allowance as annually estimated by such Government.

ACT No. XXVII. OF 1868

An Act to exempt certain Instruments from the Indian Registration Act, 1866.

Preamble.

Whereas it is expedient to exempt expressly from compulsory registration under the Indian Registration Act, 1866, certain documents heretofore or hereafter executed by or in favour of Government; It is hereby enacted as follows:

Scheduled documents exempted from Act XX. of 1866.

I. Nothing contained in the said Act shall be deemed to require, or to have at any time required, the registration of any of the documents or maps comprised in the Schedule hereto annexed.

* Declared to be in force in the Province of Mysore.—See *Gazette of India*, 2nd January, 1869, p. 4. G. O 342.

But all such documents and maps shall, for the purposes of Sections 48 and 49 of the same Act, be deemed to have been and to be registered in accordance with its provisions.

Inspection and copies of Scheduled documents.

II. Subject to such rules and the previous payment of such fees as the local Government may from time to time prescribe in this behalf, all documents and maps specified in the first, second, and third clauses of the said Schedule shall be open to the inspection of any person applying to inspect the same, and, subject as aforesaid, copies of such documents shall be given to all persons applying for such copies.

Copies of sanads to be filed by Registrar.

III. A copy of every document mentioned in the fourth clause of the said Schedule and executed on or after the 1st day of May, 1866, shall, in the case of every such document heretofore executed, as soon as may be after the passing of this Act, and in the case of every such document hereafter executed, as soon as may be after its execution, be sent by the local Government to the Registrar or to every Registrar within whose district the whole or any part of the immoveable property comprised in such document is situate, and shall be filed by him in his Book 1.

This Act to be read with Act XX. of 1866.

IV. This Act shall be read with, and taken as part of, Act XX. of 1866.

SCHEDULE.

(1.)—Documents issued, received, or attested by any officer engaged in making a settlement or revision of settlement of land revenue, and which form part of the records of such settlement.

(2.)—Documents and maps issued, received, or authenticated by any officer engaged on behalf of Government in making or revising the survey of any land, other than waste land, and which form part of the record of such survey.

(3.)—Documents which, under any law for the time being in force, are filed annually by patwáris or other officers charged with the preparation of village records.

(4.)—Sanads, inám title-deeds, and other documents purporting to be or to evidence grants or assignments by Government of land or of any interest in land, in reward for special services.

PUNJAB TENANCY ACT.

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An Act to define and amend the law relating to the tenancy of land in the Punjab.

Preamble.

Whereas it is expedient to define and amend the law relating to certain matters connected with the tenancy of land in the Punjab; It is hereby enacted as follows:

CHAPTER I.

PRELIMINARY.

Short Title. Extent of Act.

I. This Act may be called "The Punjab Tenancy Act, 1868," and shall extend only to the territories for the time being under the Government of the Lieutenant-Governor of the Punjab.

Saving of decrees and of agreements between landlords and tenants

II. Nothing contained in this Act shall affect the operation of any decree of Court under which a tenant holds or of any agreement between a landlord and a tenant, when such agreement is in writing or recorded by the proper officer in the record of a regular settlement sanctioned by the local Government.

All entries in such record in respect of matters comprised in Chapters III., IV., V., and VI. of this Act shall, when attested by the proper officer, be deemed to be agreements within the meaning of this Section.

Interpretation Clause.

III. In this Act—unless there be something repugnant in the subject or context—

"Land"

"Land" means immoveable property for the time being subject to a settlement, whether regular or summary, of land-revenue;

"Rent."

"Rent" means whatever is payable by an occupant of land on account of the use or occupation thereof;

"Arrear of rent"

Any instalment of rent which is not paid on or before the day when the same becomes due, whether under a written agreement or according to law or local usage, shall be deemed to be, for the purposes of this Act, an arrear of rent;

"Tenant"

"Tenant" means any occupant of land liable to pay rent therefor, but does not include an under-proprietor;

"Landlord."

"Landlord" means any person entitled to receive rent payable by a tenant;

"Grand-father," "uncle," and "grand-uncle."

"Grand-father" includes the father of an adoptive father, "uncle" the brother of an adoptive father, and "grand-uncle" the adoptive father of an uncle;

"Representative" means an heir or any other person taking by operation of law or by will a beneficial interest in the property of a deceased person.

"Representative."

IV. *Repealed by the Repealing Act XIV.*, 1870.

CHAPTER II.

Of Rights of Occupancy.

Tenants having right of occupancy.

V. Every tenant who—

(1) has heretofore paid no rent and rendered no service, in respect of the land occupied by him, to the proprietor thereof for the time being, beyond the amount of land-revenue and village-cesses for the time being chargeable thereon, and whose father and grand-father, uncle and grand-uncle occupying the same land, have paid no rent and rendered no service in respect thereof to such proprietor, beyond the amount aforesaid;

(2) or who has involuntarily parted or shall involuntarily part with proprietary rights in any land otherwise than by forfeiture to Government; and who has continuously occupied or shall continuously occupy such land or any part thereof from the time of such parting;

(3) or who is, at the date of the passing of this Act, the repre sentative of a person who settled as a cultivator in the village in which the land occupied by such tenant is situate along with the founders of the village;

(4) or who is or has beeng jáírdár of the village or any part of the village in which the land occupied by him as tenant is situate, and who has continuously occupied such land for not less than twenty years—

shall be deemed to have a right of occupancy in the land so occupied.

Presumption arising from entry in settlement record.

VI. Every tenant whose name appears in the records of a regular or revised settlement heretofore sanctioned by the local Government, as having a right of occupancy in land which he or the person from whom he has immediately inherited has continuously occupied from the entry of his name or the name of such person (as the case may be) in such settlement, shall be presumed to have right of occupancy in the land so occupied,

Rebuttal of presumption.

unless the landlord shall in a regular suit prove—

(1) that, within the thirty years immediately before the institution of such suit, other tenants of the same class in the same or in adjacent villages have ordinarily been ejected from their holdings at the will of the landlord; or

(2) that the tenant has voluntarily admitted, before any officer employed in making or revising a regular settlement of land-revenue or before any officer authorized to attest the entries in the record of such settlement, that he is a tenant not having a right of occupancy, and that such admission has been recorded at the time by the officer so employed or authorized.

Right of occupancy in land taken in exchange.

XVII. If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him for other land belonging to the same landlord, the land taken in exchange shall, for the purposes of this Act,

be held to be subject to the same right of occupancy as the land given in exchange would have been subject to if the exchange had not taken place.

Suits to establish rights of occupancy on other grounds.

VIII. Nothing herein contained shall be deemed to preclude any person claiming a right of occupancy on any ground other than the grounds hereinbefore specified from suing to establish such right.

Non-acquisition of right of occupancy on other grounds.

IX. No tenant shall be deemed to acquire a right of occupancy by mere lapse of time.

And no right of occupancy in the common lands belonging to a pattídárí village community shall be acquired under this chapter.

CHAPTER III.

Of Rent.

1.—*Enhancement.*

Decree for enhancement of rent.

X. No tenant shall, in the absence of an agreement or decree of Court to the contrary effect, be held liable, in a suit for arrears of rent in respect of any land, to pay rent exceeding in amount the rent payable by him in respect of such land for the last preceding agricultural year, unless a decree for the enhancement of the rent has been made as hereinafter provided.

The said Lieutenant-Governor shall have power, from time to time, by notification in the official Gazette, to declare for all or any of the districts under his government the day on which the agricultural year shall, for the purposes of this Section, be deemed to commence.

Grounds of enhancement.

XI. The Court may decree that the rent previously payable by any tenant having a right of occupancy may be enhanced on any of the following grounds:—

1st Ground.—That the quantity of land held by him as tenant exceeds the quantity for which he has previously been liable to pay rent.

Rule.—In this case the Court shall decree rent for the land in excess at the same rate as that payable in respect of the land of a similar description and with similar advantages held by him of the same landlord.

2nd Ground.—That the rate of rent paid by him is below the rate of rent usually paid in the same or adjoining villages by the same class of tenants having a right of occupancy for land of a similar description and with similar advantages.

Rule.—In this case the Court shall enhance his rent to the amount claimed by the plaintiff not exceeding such rate.

3rd Ground.—That the rate of rent paid by him is,

if he belong to the class described in Clause 1 of Section 5, more than fifty per centum,

if he belong to any of the classes specified in Clause 2, 3, or 4 of Section 5, more than thirty per centum,

and if he belong to the class specified in Section 6, more than fifteen per centum,

below the rate of rent usually paid in the neighbourhood by tenants of the same class not having a right of occupancy for land of a similar description and with similar advantages.

Rule.—In this case the Court shall enhance his rent to the amount

claimed by the plaintiff not exceeding such rate, less fifty per centum, thirty per centum, or fifteen per centum, as the case may be.

Enhancement when tenant pays revenue or cesses.

XII. If the revenue or any of the village-cesses is payable by the defendant, the rate to which his rent may be enhanced shall be reduced by the amount so payable.

Suit for re-enhancement.

XIII. After a decree has been passed under Section 10, no suit shall lie against the defendant for re-enhancement of his rent until the expiration of five years from the date of such decree, unless in the meantime there has taken place a general revision of regular settlement, under which the revenue payable for the land comprised in the decree has been increased.

2.—*Abatement.*

Grounds of right to abatement.

XIV. Every tenant having a right of occupancy shall be entitled to claim abatement of the rent previously paid by him on either of the following grounds, and on no others :—

(1) that the area of the land in his occupation has been diminished by diluvion or otherwise, or proved to be less than the quantity for which rent has been previously paid by him ; or

(2) that the productive powers of such land have been decreased by any cause beyond his control.

3.—*Remission.*

When Court may allow remission from rent.

XV. Notwithstanding anything hereinbefore contained, it shall be lawful for the Court, in making a decree for an arrear of rent,

if the area of the land in the tenant's occupation has been diminished by diluvion or otherwise,

or if the produce of such land has been diminished by drought or hail, or other calamity beyond his control, to such an extent that the full amount of rent payable by him cannot, in the opinion of the Court, be equitably decreed,

to allow such remission from the rent payable by him as may appear equitable :

Provided that, if the tenant hold a lease for an unexpired term of not less than five years, or have right of occupancy, in a revenue-paying estate, no such remission shall be allowed to him, unless a remission of revenue has been allowed on the same ground and by competent authority in respect of the same estate.

4.—*Rent in Kind.*

Commutation of rent in kind.

XVI. No commutation of rent in kind into rent in money, and no commutation of rent in money into rent in kind, shall take place without the consent of both the landlord and the tenant.

Division and appraisement of produce taken for rent.

XVII. Whenever rent is taken by division of the produce in kind or by estimate or appraisement of the standing crop, or other procedure of a similar nature, requiring the presence of the person entitled to the rent and of the cultivator, either personally or by their recognized agents,

if either party neglects to be present at the proper period,

or if a dispute arises between the parties regarding such division, estimate, or appraisement,

either party may present an application to the Court, **on a paper bearing a stamp of eight annas*, requesting that a proper person be deputed to make the division, estimate, or appraisement.

Procedure in case of dispute.

XVIII. On receiving such application and such sum, to be paid in the first instance by the applicant, as the Court thinks sufficient to defray the costs of serving the notice and making the award next hereinafter mentioned, the Court shall issue a written notice to the other party, requiring him to attend on the date and at the place specified in the notice, and shall depute a proper person to make the division, estimate, or appraisement and to direct by whom the costs of each party are to be paid.

The award of such person in respect of the said division, estimate, or appraisement and costs shall be final, unless within three months from the date thereof either party institute a suit to set it aside.

CHAPTER IV.

OF EJECTMENT.

Ejectment of tenant with right of occupancy.

XIX. No tenant having a right of occupancy in any land shall be ejected therefrom otherwise than in execution of a decree.

Such decree shall not be made, unless—

(1) at the date of the decree, a decree against such tenant for an arrear of rent in respect of such land has remained unsatisfied for fifteen days or upwards; or

(2) the landlord tenders to the tenant, in addition to any compensation to which he may be entitled under Sections 27 and 37 (but subject to deduction in respect of the arrears of rent, if any payable by him), such compensation as the Court thinks fit, not less than fifteen, and not more than thirty, times the amount of the net annual profits receivable by the tenant in respect of such land on the average of the three years next before the date of the tender.

Nothing in the last preceding clause shall be deemed to apply to a tenant belonging to any of the classes specified in Section 5, or to a tenant when he or the person from whom he has inherited, has continuously occupied such land for thirty years or upwards.

Ejectment of tenant without right of occupancy.

XX. A tenant not having a right of occupancy may be ejected—

first, if a decree has been obtained against him for arrears of rent or for ejectment; or

second, when he is not holding under an unexpired lease, or an agreement, or a decree of Court, by notice given by the landlord in manner hereinafter mentioned.

Time of ejectment.

XXI. Notwithstanding anything herein contained, no tenant shall be ejected from the land in his occupation, except between the 15th day of April and the 15th day of June, unless, while the rent in respect of such land is in arrear,

* The words in Italics are repealed by Act VII, 1870, Section 2, Schedule 3.

he has failed to cultivate the land in accordance with the terms on which he holds it.

Notice of Ejectment.

Notice of ejectment.

XXII. The notice of ejectment shall be written in the vernacular language of the district: it shall specify the lands from which the tenant is to be ejected; and it shall inform him that, if he means to dispute the ejectment, he must institute a suit for that purpose on or before the 15th day of May next after the service of the notice, or quit the land on or before that date.

The said Lieutenant-Governor shall determine what, for the purposes of this Section, shall be deemed to be the vernacular language of each district in the territories under his government.

Service of notice.

XXIII. On the landlord's application to the tahsíldár or other officer authorized to serve such notices, the notice shall be served by him on or before the 15th day of April, and the landlord shall pay the costs of service.

The notice shall, if practicable, be served personally on the tenant.

But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at some conspicuous place in the village wherein the land is situate.

Power to alter dates for suing to dispute, and for serving notice of, ejectment.

XXIV. The said Lieutenant-Governor shall have power, from time to time, by notification published in the official Gazette not less than six months before such notification is to come in to force, to fix, for the purposes of Sections 22 and 23, in all or any of the districts under his government, any two days other than the days fixed in the same Sections:

Provided that, between the days so fixed by notification, there shall be an interval of at least one month.

Cessation of tenancy on failure to contest notice.

XXV. If the tenant on whom such notice of ejectment has been served fails to institute, on or before the 15th day of May next after the service, or, in case the said Lieutenant-Governor fixes, for the purpose of Section 22, any day other than the said 15th day of May, then on or before the day so fixed, a suit to contest his liability to be ejected, his tenancy of the land in respect of which the notice has been served shall be held to cease on that day.

Assistance to eject.

When assistance to eject may be given by Court.

XXVI. If no such suit be brought, or if such suit be brought and dismissed, and the landlord require the assistance of the Court to eject any person whose tenancy is alleged to have ceased under the provisions of Section 22, he may apply for such assistance; and if the Court be satisfied that notice of ejectment was duly served on such person, it shall, subject to the provisions of Section 19, give such assistance accordingly.

Nothing done by the Court under this Section shall affect the right of any tenant to institute a suit against his landlord on account of illegal ejectment, and to recover compensation of the same.

Growing Crops.

Compensation to ejected tenant for growing crops.

XXVII. Any tenant ejected in accordance with the provisions of this Act, shall be entitled to receive from the landlord the value of any growing crops or other ungathered products of the earth belonging to such tenant and being on the land at the time of the ejectment:

Provided that, if the land has been sown or planted by the tenant after the service on him of the notice mentioned in Section 20, he shall not be so entitled, unless, after such service, the landlord has expressly authorized him to continue to occupy the land.

CHAPTER V.

Of Relinquishment, Leases and Under-Leases, Alienation and Succession.

1.—*Relinquishment.*

Relinquishment of land by tenant.

XXVIII. Every tenant shall be liable to pay the rent payable in respect of the land in his occupation for the ensuing agricultural year, unless, on or before the 1st day of January next before the commencement of that year, he gives notice to the landlord of his intention to relinquish such land before the commencement of such year, and relinquishes it accordingly, or unless the land has been let to any other person by the landlord.

Power to fix commencement of agricultural year for purposes of Section 28.

XXIX. The said Lieutenant-Governor shall have power, from time to time, by notification in the official Gazette, to declare, for all or any of the districts under his government, the day on which the agricultural year shall, for the purposes of Section 28, be deemed to commence, and, in lieu of the said 1st day of January, to substitute, for the purposes of Section 28, in all or any of the same districts, such day as he thinks fit.

Discharge of tenant.

XXX. If the tenant relinquishes the land according to his said notice, he shall be discharged from all liability to pay the rent which would otherwise have accrued due in respect of such land after the date of the relinquishment.

Refusal to receive notice.

XXXI. If the landlord or his recognized agent refuse to receive such notice, the tenant may apply to the tahsíldár or proper officer, and written notice shall thereupon be served by him on such landlord or agent, and the tenant shall pay the costs of service.

The notice shall, if practicable, be served personally on the landlord or agent.

But if he cannot be found, service may be made by affixing the notice at his usual place of residence, or, if he does not reside in the district wherein the land is situate, at some conspicuous place in the village wherein the land is situate.

2.—*Leases and Under-leases.*

Right to let or under-let.

XXXII. Every tenant having a right of occupancy may let or under-let the land in his occupation or any part thereof:

Saving of agreements not to let or sub-let.

Provided that nothing in the former part of this Section shall be deemed to affect any agreement on the part of a lessee that he will not, or will not without the previous consent of the lessor or his representative, under-let or part with the possession of the said land or any portion thereof.

Liability of lessee and under-lessee.

XXXIII. Every person to whom land is let or under-let under Section 32 shall, in respect of such land, and so far as regards the landlord and his representative, be subject to all the liabilities under this Act to which the lessor or under-lessor would have been subject in respect of such land, and so far as regards such landlord and his representative, in case the lease or under-lease had not been made.

3.—*Alienation.*

Right of tenant to alienate.

XXXIV. Any tenant having a right of occupancy claimable in accordance with the terms of any of the clauses of Section 5, may alienate the land in his occupation, or any part thereof:

Landlord's right of pre-emption.

Provided that, in every such case, the land or part aforesaid shall be offered for sale in the first instance to the landlord at the market-value, and shall not be alienated to any other person unless the landlord shall, for the space of one month, refuse or neglect to complete the purchase.

Every other tenant may alienate the land in his occupation, or any part thereof, with his landlord's previous consent, but not otherwise.

Rights and liabilities of tenant's alienee.

XXXV. Every person other than the landlord, to whom land is alienated under Section 34, shall, in respect of such land, have the same rights and be subject to the same liabilities as the tenant making the alienation.

4.—*Succession.*

Succession to right of occupancy.

XXXVI. When a tenant having a right of occupancy in any land dies, his right shall devolve on his male lineal descendants (if any), and, failing such descendants, the right shall go to his male collateral relatives: Provided that the common ancestor of the deceased and his said relatives shall have occupied such land.

As among descendants and collateral relatives claiming under this Section, such right shall devolve and go as if it were land left by the deceased in the village in which such land is situate.

CHAPTER VI.

Of Compensation for Tenant's Improvements.

Tenant's right to compensation for improvements.

XXXVII. If any tenant, or, in the case of a tenant with a right of occupancy, the person from whom he has inherited, makes any such improvements on the land in his occupation as are hereinafter mentioned, the rent payable by him or his representative in respect of such land shall not be enhanced, nor shall he or his representative be ejected from the same land, unless and until he or his representative, as the case may be, has received compensation for the money or labour, or

both, expended in making such improvements by him, or the person from whom he has inherited, or whom he represents, within thirty years next before the date of such enhancement or ejectment.

"Improvements" defined.

XXXVIII. The word "improvements," as used in Section 37, means works by which the annual letting-value of the land has been, and at the time of demanding compensation continues to be, increased, and shall comprise—

1*st*, the construction of works for the storage of water, for the supply of water for agricultural purposes, for drainage and for protection against floods; the construction of wells, the reclaiming and clearing of waste lands and other works of a like nature;

2*nd*, the renewal or reconstruction of any of the foregoing works, or such alterations therein, or additions thereto, as are not required for maintaining the same, and which increase durably their value.

Compensation how made.

XXXIX. Such compensation may, at the option of the landlord or his representative, be made—

(1) by payment in money;

(2) by the grant of a beneficial lease of the land by the landlord or his representative to the tenant or his representative; or

(3) partly by payment in money, and partly by the grant of such lease as aforesaid.

Provision for difference as to amount or value of compensation.

XL. In case of difference as to the amount or value of the compensation tendered, either party may present an application to the Court on a paper bearing a stamp of eight annas, stating the matter in dispute, and requesting a determination thereof.

Notice of such application shall be served on the other party by the proper officer, and the applicant shall pay the costs of service.

On receiving such application, the Court after taking such evidence as the parties or either of them may adduce, and after making such further enquiry (if any) as it may deem necessary, shall determine (as the case may be) the amount of the payment, or the terms of the lease, or both:

Provided that, in determining such amount or value, the Court shall take into account any assistance given by the landlord, either directly by money, material or labour at the time of making such improvements, or indirectly by subsequently allowing the tenant to hold at a rate of rent more favourable than the rate at which he otherwise would have held.

Tender of lease for twenty years to bar right to claim compensation.

XLI. If in any case a landlord tenders to a tenant a lease of the land in his occupation, for a term of not less than twenty years from the date of the tender, at the annual rent then paid by the tenant, or at such other annual rent as may be agreed upon, such tender, if accepted by the tenant, shall bar any claim by him or his representative in respect of improvements previously made on such land by the tenant or the person from whom he has inherited.

CHAPTER VII.

OF PROCEDURE.

Civil Courts to hear cases under certain Sections.

XLII. Cases cognizable under Sections 5, 6, 11, 14, 19, 20, and 25 shall, unless otherwise provided for by any law for the time being in force, and subject to the provisions of Section 21 of Act XIX. of 1865 *(to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies)*, be heard in the Civil Courts other than the Courts of Small Causes, unless when such Courts of Small Causes shall have been specially empowered by the local Government, under Act XI. of 1865, Section 6, to hear such cases.

Applications under certain Sections to be proceedings on Revenue side.

Applications under Sections 17, 23, 26, and 31 shall be deemed to be proceedings on the Revenue side: they shall be subject to the rules of procedure for the time being in force in such cases; and all orders on such applications shall be applicable to the Financial Commissioner of the Punjab.

XLIII. *Repealed by the Repealing Act XIV.*, 1870.

Saving of procedure for recovery of rent.

XLIV. The procedure now in force in the Pvnjab for the recovery of rent shall, except in so far as it is inconsistent with the provisions of this Act, continue to be in force.

Confirmation of proceedings of settlement officers.

XLV. All proceedings of officers of Government in making or revising, prior to the passing of this Act, settlements of land-revenue shall, so far as such proceedings are consistent with the provisions of this Act, and subject to appeal and revision when an appeal or a revision is provided, be deemed to have been taken in accordance with law.

OUDH ESTATES' ACT, 1869.

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ACT No. I. OF 1869.

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An Act to define the rights of Taluqdárs and others in certain estates in Oudh, and to regulate the succession thereto.

Preamble.

Whereas, after the re-occupation of Oudh by the British Government in the year 1858, the proprietary right in divers estates in that province was, under certain conditions, conferred by the British Government upon certain Taluqdárs and others; and whereas doubts may arise as to the nature of the rights of the said Taluqdárs and others in such estates, and as to the course of succession thereto; and whereas it is expedient to prevent such doubts, and to regulate such course, and to provide for such other matters connected therewith as are hereinafter mentioned; It is hereby enacted as follows:

I.—Preliminary.

Short Title.
Extent of Act.

I. This Act may be cited as "The Oudh Estates' Act, 1869," and shall extend only to the estates hereinafter referred to.

Interpretation Clause.

II. In this Act—unless there be something repugnant in the subject or context—

"Transfer."

"Transfer" means an alienation *inter vivos*;

"Will."

"Will" means the legal declaration of the intentions of the testator with respect to his property affected by this Act, which he desires to be carried into effect after his death.

"Codicil."

"Codicil" means an instrument made in relation to a Will, and explaining, altering, or adding to its dispositions: it is considered as forming an additional part of the Will;

"Signed."

"Signed" applies to the affixing of a mark;

"Registered."

"Registered" means registered according to the provisions of the rules relating to the registration of assurances for the time being in force in Oudh;

"Minor."
"Minority."

"Minor" means any person who shall not have completed the age of eighteen years, and "minority" means the status of such person;

"Taluqdár."

"Taluqdár" means any person whose name is entered in the first of the lists mentioned in Section 8;

"Grantee."

"Grantee" means any person upon whom the proprietary right in an estate has been conferred by a special grant of the British Government, and whose name is entered in the fifth or sixth of the lists mentioned in Section 8;

"Estate" means the taluqa or immoveable property acquired or held by a Taluqdár or Grantee in the manner mentioned in Section 3, Section 4, or Section 5, or the immoveable property conferred by a special grant of the British Government upon a Grantee;

"Estate."

"Heir" means a person who inherits property otherwise than as a widow, under the special provisions of this Act; and "legatee" means a person to whom property is bequeathed under the same provisions.

"Heir."

"Legatee."

Words expressing relationship denote only legitimate relatives, but apply to children in the womb who are afterwards born alive.

Words expressing relationship.

II.—Rights and liabilities of Taluqdárs and Grantees.

III. Every Taluqdár with whom a summary settlement of the Government revenue was made between the 1st day of April, 1858, and the 10th day of October, 1859, or to whom, before the passing of this Act and subsequently to the 1st day of April, 1858, a taluqdárí sanad has been granted,

Taluqdárs to have heritable and transferable rights in their estates.

shall be deemed to have hereby acquired a permanent, heritable and transferable right in the estate comprising the villages and lands named in the list attached to the agreement or kabuliyat executed by such Taluqdár when such settlement was made,

or which may have been or may be decreed to him by the Court of an officer engaged in making the first regular settlement of the province of Oudh, such decree not having been appealed from within the time limited for appealing against it, or, if appealed from, having been affirmed,

subject to all the conditions affecting the Taluqdár contained in the orders passed by the Governor-General of India on the 10th and 19th days of October, 1859, and re-published in the first Schedule hereto annexed, and subject also to all the conditions contained in the sanad under which the estate is held.

Subject to certain conditions.

IV. Every person whose lands the proclamation issued in Oudh in the month of March, 1858, by order of the Governor-General of India specially exempted from confiscation, and whose names are contained in the second Schedule hereto annexed, shall be deemed to possess in the lands, for which such person executed a kabuliyat between the 1st day of April, 1858, and the 1st day of April, 1860, the same right and title which he would have possessed thereto if he had acquired the same in the manner mentioned in Section 3; and he shall be deemed to hold the same subject to all the conditions affecting Taluqdárs which are referred to in the said Section, and to be a Taluqdár for all the purposes of this Act.

Rights and liabilities of persons named in second Schedule.

V. Every Grantee shall possess the same rights and be subject to the same conditions in respect of the estate comprised in his grant as a Taluqdár possesses and is subject to, under Section 3, in respect of his estate.

Grantees' rights and liabilities.

VI. Nothing in Sections 3, 4, and 5, or in the said orders, or in any sanad, shall be deemed to bar a suit for redemption,

Saving of certain redemption-suits.

(*a*) where the instrument of mortgage was executed on or after the 13th day of February, 1844, and fixed no term within which the property comprised therein might be redeemed, or

(*b*) where the instrument of mortgage fixed a term within which the property comprised therein might be redeemed, and such term did not expire before the 13th day of February, 1856.

Heirlooms.

VII. If a Taluqdár or Grantee, or any heir or legatee of a Taluqdár or Grantee, desire that any elephants, jewels, arms, or other articles of moveable property belonging to him shall devolve along with his estate, he shall take an inventory of such articles. Such inventory shall be signed by him and deposited in the office of the Deputy Commissioner of the District wherein such estate or the greater part thereof is situate; and thereupon such of the said articles as shall not have been transferred shall (so far as may be possible) be used and enjoyed by the person who, under or by virtue of this Act, is for the time being in actual possession or in receipt of the rents and profits of the said estate or the greater part thereof, otherwise than as mortgagee or lessee.

III.—*Lists of Taluqdárs and Grantees.*

Preparation of lists of Taluqdárs and Grantees.

VIII. Within six months after the passing of this Act, the Chief Commissioner of Oudh, subject to such instructions as he may receive from the Governor-General of India in Council, shall cause to be prepared six lists, namely :—

First.—A list of all persons who are to be considered Taluqdárs within the meaning of this Act ;

Second.—A list of the Taluqdárs whose estates, according to the custom of the family on and before the 13th day of February, 1856, ordinarily devolved upon a single heir ;

Third.—A list of the Taluqdárs, not included in the second of such lists, to whom sanads or grants have been or may be given or made by the British Government up to the date fixed for the closing of such lists, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture ;

Fourth.—A list of the Taluqdárs to whom the provisions of Section 23 are applicable ;

Fifth.—A list of the Grantees to whom sanads or grants have been or may be given or made by the British Government, up to the date fixed for the closing of such list, declaring that the succession to the estates comprised in such sanads or grants shall thereafter be regulated by the rule of primogeniture ;

Sixth.—A list of the Grantees to whom the provisions of Section 23 are applicable.

Publication of lists.

IX. When the lists mentioned in Section 8 shall have been approved by the Chief Commissioner of Oudh, they shall be published in the *Gazette of India.** After such publication, the first and second of the said lists shall not, except in the manner provided by Section 30 or Section 31, as the case may be, be liable to any alteration in respect of any names entered therein.

* See *Gazette of India*, 31st July, 1869, p. 150, G. O. No. 1003.

Supplementary list.

If, at any time after the publication of the said lists, it appears to the Governor-General of India in Council that the name of any person has been wrongly omitted from, or wrongly entered in, any of the said lists, the said Governor-General in Council may order the name to be inserted in the proper list, and such name shall be published in the *Gazette of India* in a supplementary list, and such person shall be treated in all respects as if his name had been from the first inserted in the proper list.

None but persons named in lists to be deemed Taluqdárs or Grantees.

X. No persons shall be considered Taluqdárs or Grantees within the meaning of this Act, other than the persons named in such original or supplementary lists as aforesaid. The Courts shall take judicial notice of the said lists, and shall regard them as conclusive evidence that persons named therein are such Taluqdárs or Grantees.

IV.—*Powers of Taluqdárs and Grantees to transfer and bequeath.*

Taluqdárs and Grantees may transfer and bequeath.

XI. Subject to the provisions of this Act, and to all the conditions under which the estate was conferred by the British Government, every Taluqdár and Grantee, and every heir and legatee of a Taluqdár and Grantee, of sound mind and not a minor, shall be competent to transfer the whole or any portion of his estate, or of his right and interest therein, during his life-time, by sale, exchange, mortgage, lease or gift, and to bequeath by his will to any person the whole or any portion of such estate, right and interest.

A married woman may make a bequest under this Act of any property which she could alienate by her own act during her life.

Persons who are deaf or dumb or blind are not thereby incapacitated for making a transfer or bequest under this Act, if they are able to know what they do by it.

One who is ordinarily insane may make a transfer or bequest under this Act during an interval in which he is of sound mind.

No person can make a transfer or bequest under this Act while he is in such a state of mind, whether from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

A transfer and a will, or any part of a will, the making of which has been caused by fraud or coercion or by such importunity as takes away the free agency of the transferer or testator, is void.

Rule against perpetuity.

XII. No transfer or bequest under this Act shall be valid whereby the vesting of the thing transferred or bequeathed may be delayed beyond the life-time of one or more persons living at the decease of the transferee or testator and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the thing transferred or bequeathed is to belong.

Restriction as to donees and legatees.

XIII. No Taluqdár or Grantee, and no heir or legatee of a Taluqdár or Grantee, shall have power to give or bequeath his estate, or any portion thereof, or any interest therein, to any person not being either—

(1) a person who, under the provisions of this Act, or under the ordinary law to which persons of the donor's or testator's tribe and religion are subject, would have succeeded to such estate or to a

portion thereof, or to an interest therein, if such Taluqdár or Grantee, heir or legatee, had died intestate, or

(2) a younger son of the Taluqdár or Grantee, heir or legatee, in case the name of such Taluqdár or Grantee appears in the third or the fifth of the lists mentioned in Section 8, except by an instrument of gift or a will executed and attested, not less than three months before the death of the donor or testator, in manner herein provided in the case of a gift or will, as the case may be, and registered within one month from the date of its execution.

V.—*Transfers and Bequests.*

Transfers and bequests to Taluqdárs or heirs.

XIV. If any Taluqdár or Grantee shall heretofore have transferred or bequeathed, or if any Taluqdár or Grantee, or his heir or legatee, shall hereafter transfer or bequeath, the whole or any portion of his estate to another Taluqdár or Grantee, or to such younger son as is referred to in Section 13, Clause 2, or to a person who would have succeeded according to the provisions of this Act to the estate or to a portion thereof if the transferor or testator had died without having made the transfer and intestate, the transferee or legatee and his heirs and legatees shall have the same rights and powers in regard to the property to which he or they may have become entitled under or by virtue of such transfer or bequest, and shall hold the same subject to the same conditions and to the same rules of succession as the transferor or testator.

Transfers and bequests to persons out of line of succession.

XV. If any Taluqdár or Grantee shall heretofore have transferred or bequeathed, or if any Taluqdár or Grantee or his heir or legatee shall hereafter transfer or bequeath to any person not being a Taluqdár or Grantee the whole or any portion of his estate, and such person would not have succeeded according to the provisions of this Act to the estate or to a portion thereof if the transferor or testator had died without having made the transfer and intestate, the transfer of and succession to the property so transferred or bequeathed shall be regulated by the rules which would have governed the transfer of and succession to such property if the transferee or legatee had bought the same from a person not being a Taluqdár or Grantee.

Transfers to be in writing, signed and attested.

XVI. No transfer of any estate, or of any portion thereof, or of any interest therein, made by a Taluqdár or Grantee or by his heir or legatee under the provisions of this Act, shall be valid unless made by an instrument in writing signed by the transferor and attested by two or more witnesses.

Further requisites to validity of gifts inter vivos.

XVII. If any such transfer be made by gift, the gift shall not be valid unless, within six months after the execution of the instrument of gift, the gift be followed by delivery by the donor, or his representative in interest, of possession of the property comprised therein, nor unless the instrument shall have been registered within one month from the date of its execution.

Gifts to religious, or charitable uses.

XVIII. No Taluqdár or Grantee, and no heir or legatee of a Taluqdár or Grantee, shall have power to give his estate, or any portion thereof or interest therein, to

religious or charitable uses, except by an instrument of gift executed not less than three months before his death, and subject to the provisions contained in Section 17.

VI.—*Testamentary Succession.*

Sections of Succession Act applied to wills of Taluqdars.

XIX. Sections 49, 50, 51, 54, 55, and 57 to 77 (both inclusive), and Sections 82, 83, 85, and 88 to 98 (both inclusive) of the Indian Succession Act (X. of 1865), shall apply to all wills and codicils made by any Taluqdár or Grantee, or by his heir or legatee, under the provisions of this Act, for the purpose of bequeathing to any person his estate, or any portion thereof, or any interest therein: Provided that marriage shall not revoke any such will or codicil: Provided, also, that nothing herein contained shall affect wills made before the passing of this Act.

In applying the said Sections to wills and codicils made under this Act, all words hereinbefore defined, and occurring in such Sections, shall (unless there be something repugnant in the subject or context) be deemed to have the same meaning as this Act has attached to such words respectively.

Bequests to religious and charitable uses.

XX. No Taluqdár or Grantee, and no heir or legatee of a Taluqdár or Grantee, having a child, parent, brother, unmarried sister, or a nephew, being the naturally born son of a brother of such Taluqdár or Grantee, heir or legatee, shall have power to bequeath his estate or any part thereof or any interest therein exceeding in amount or value the sum of 2,000 Rupees to religious or charitable uses, except by a will executed not less than three months before his death, and registered within one month from the date of its execution.

VII.—*Intestate Succession.*

'Son,' 'descendants,' 'daughter,' 'brother,' 'widow,' defined.

XXI. In the next following Section, unless where there is something repugnant in the context, the words 'son,' 'descendants,' 'daughter' and 'brother' apply only to *najib-ul-tarfain*, and the word 'widow' applies only to a woman belonging to the *ahl-i-bradárí* of her deceased husband.

Special rules of succession to intestate Taluqdars and Grantees.

XXII. If any Taluqdár or Grantee whose name shall be inserted in the second, third, or fifth of the lists mentioned in Section 8, or his heir or legatee, shall die intestate as to his estate, such estate shall descend as follows, *viz.*:—

(1.)—To the eldest son of such Taluqdár or Grantee, heir or legatee, and his male lineal descendants, subject to the same conditions and in the same manner as the estate was held by the deceased;

(2.)—Or if such eldest son of such Taluqdár or Grantee, heir or legatee, shall have died in his life-time, leaving male lineal descendants, then to the eldest and every other son of eldest son successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;

(3.)—Or if such eldest son of such Taluqdár or Grantee, heir or legatee, shall have died in his father's life-time without leaving male lineal descendants, then to the second and every other son of the said Taluqdár or Grantee, heir or legatee, successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;

(4.)—Or in default of such son or descendants, then to such son (if any) of a daughter of such Taluqdár or Grantee, heir or legatee, as has been treated by him in all respects as his own son, and to the male lineal descendants of such son, subject as aforesaid;

(5.)—Or in default of such son or descendants, then to such person as the said Taluqdár or Grantee, heir or legatee, shall have adopted by a writing executed and attested in manner required in case of a will and registered, subject as aforesaid;

(6.)—Or in default of such adopted son, then to the eldest and every other brother of such Taluqdár or Grantee, heir or legatees successively, according to their respective seniorities, and their respective male lineal descendants, subject as aforesaid;

(7.)—Or in default of any such brother, then to the widow of the deceased Taluqdár or Grantee, heir or legatee; or, if there be more widows than one to the widow first married to such Taluqdár or Grantee, heir or legatee, for her life-time only;

(8.)—And upon the death of such widow, then to such son as the said widow shall, with the consent in writing of her deceased husband, have adopted by a writing executed and attested in manner required in case of a will and registered, subject as aforesaid;

(9.)—Or on the death of such first married widow and in default of a son adopted by her with such consent and in such manner as aforesaid, then to the other widow (if any) of such Taluqdár or Grantee heir or legatee, next in order of marriage, for her life, and on the death of such other widow, to a son adopted by her with such consent and in such manner as aforesaid; or in default of such adopted son, then to the other surviving widows according to their respective seniorities as widows, for their respective lives, and on their respective deaths, to the sons so adopted by them respectively, and to the male lineal descendants of such sons respectively, subject as aforesaid;

(10.)—Or in default of any such widow or of any son so adopted by her, or of any such descendant, then to the male lineal descendants, not being *najíb-ul-tarfain*, of such Taluqdár or Grantee, heir or legatee, successively, according to their respective seniorities and their respective male lineal descendants, whether *najíb-ul-tarfain* or not;

(11.)—Or in default of any such descendant, then to such persons as would have been entitled to succeed to the estate under the ordinary law to which persons of the religion and tribe of such Taluqdár or Grantee, heir or legatee, are subject.

Nothing contained in the former part of this Section shall be construed to limit the power of alienation conferred by Section 11.

General rule of succession to intestate Taluqdars and Grantees.

XXIII. Except in the cases provided for by Section 22, the succession to all property left by Taluqdárs and Grantees, and their heirs and legatees, dying intestate, shall be regulated by the ordinary law to which members of the intestate's tribe and religion are subject.

VIII.—*Maintenance.*

Maintenance of surviving relatives of Taluqdars and Grantees.

XXIV. When any Taluqdár or Grantee, or his heir or legatee, dies leaving him surviving such relatives as are hereinafter mentioned, the person for the time being in the possession of his estate or the rents and profits thereof shall be liable to pay to each of such relatives during his or her

life, or for such other period as is hereinafter mentioned, by twelve equal monthly payments, an annuity in accordance with the custom of the country not exceeding such amount as is hereinafter mentioned: Provided that such relative was at the date of death of the deceased living together with him: Provided, also, that such relative is and continues to be without any other adequate means of maintenance.

If any part of such estate shall have been transferred or bequeathed by the deceased, the person for the time being in possession of such part, or of the rents and profits thereof, shall be liable to pay proportionate parts of said annuities during the continuance thereof respectively.

Grand-parents, parents, and senior widows.

XXV. In the case of the grand-parents, parents, and senior widows of the deceased, the maximum amount of the annuity shall be as follows:—

(*a.*) where the annual revenue payable to Government in respect of the estate is or exceeds 1,50,000 Rupees—a sum not exceeding 6000, Rupees:

(*b.*) where such revenue is or exceeds 100,000 Rupees, but is less than 1,50,000 Rupees—a sum not exceeding 2,400 Rupees:

(*c.*) where such revenue is or exceeds 50,000 Rupees, but is less than 100,000 Rupees—a sum not exceeding 1,200 Rupees:

(*d.*) where such revenue is or exceeds 25,000 Rupees, but is less than 50,000 Rupees—a sum not exceeding 600 Rupees:

(*e.*) where such revenue is or exceeds 15,000 Rupees, but is less than 25,000 Rupees—a sum not exceeding 360 Rupees:

(*f.*) where such revenue is or exceeds 7,000 Rupees, but is less than 15,000 Rupees—a sum not exceeding 240 Rupees; and

(*g.*) where such revenue is less than 7,000 Rupees—a sum not exceeding 180 Rupees.

Junior widows.

In the case of a junior widow of the deceased, the maximum amount of the annuity shall be one-half of the maximum amount to which a senior widow of the deceased would be entitled under the former part of this Section.

Brothers and minor sons.

XXVI. In the case of brothers and minor sons of the deceased, the maximum amount of the annuity shall be a sum not more than 1,200 Rupees.

Nephews.

In the case of nephews of the deceased, being fatherless minors, the maximum amount of the annuity shall be a sum not more than 600 Rupees.

Unmarried daughters, widows of sons and brothers and inferior widows.

XXVII. In the case of unmarried daughters of the deceased, widows of his sons and brothers, and his widows not of his *ahl-i-brádarí*, the maximum amount of the annuity shall be a sum not more than 360 Rupees.

Continuance of annuities.

XXVIII. Subject to the provisions hereinbefore contained, the said annuities shall continue,

(*a.*) in the case of a minor son or a minor nephew, till he ceases to be a minor;

(*b.*) in the case of a daughter or widow, till she voluntarily leaves the household of the heir or legatee of the deceased, or would, according to the custom of the country, cease to be entitled to maintenance; and

(*c.*) in all other cases, till the annuitant dies.

IX.—Miscellaneous.

Muhammadan Taluqdárs and Grantees empowered to adopt.

XXIX. Every Muhammadan Taluqdár, Grantee, heir or legatee, and every widow of a Muhammadan Taluqdár or Grantee, heir or legatee, with the consent in writing of her deceased husband, shall, for the purposes of this Act, have power to adopt a son whenever, if he or she were a Hindú, he or she might adopt a son.

Such power shall be exerciseable only by writing executed and attested in manner required by Section 19 in case of a will and registered.

Alteration of rules of intestate succession in cases of Taluqdárs and Grantees named in list 3 or list 5.

XXX. Any Taluqdár or Grantee whose name has been entered in the third or fifth of the lists mentioned in Section 8, or his heir or legatee, may, at any time hereafter, present to the Chief Commissioner of Oudh a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of an instrument of gift, that he is desirous that the succession to his estate shall, in case of his intestacy, cease to be regulated in the manner described in Section 22, and that it shall in future be regulated by the ordinary law to which members of his tribe and religion are subject.

On receiving such declaration, the said Chief Commissioner shall cause to be inserted the name of such Taluqdár or Grantee, heir or legatee, in the fourth or sixth (as the case may be) of the lists mentioned in Section 8, and shall cause a note thereof to be made in the proper place in the third or fifth (as the case may be) of the said lists, and the succession to such estate shall thenceforward, in case of intestacy) be regulated in the manner provided by Section 23.

Reverter to ordinary law of succession.

XXXI. Any Taluqdár or Grantee, heir or legatee, may, at any time hereafter, present to the Chief Commissioner of Oudh a declaration in writing, executed and registered in the manner required by this Act for the execution and registration of instruments of gift, that he is desirous that his estate should in future be held subject to the ordinary law of succession to which members of his tribe and religion are subject.

On receiving such declaration, the Chief Commissioner shall cause a note thereof to be made in the proper places in each of the lists mentioned in Section 8, in which the name of such Taluqdár or Grantee, heir or legatee, has been entered, and thenceforward none of the provisions of this Act shall apply to such estate, which shall thenceforward be held subject in all respects to the ordinary law of succession to which members of his tribe and religion are subject.

Saving of rights of creditors.

XXXII. Nothing hereinbefore contained shall affect any right which the creditors of any person making a transfer or bequest under the provisions of this Act, would have possessed as against the property comprised in such transfer or bequest if this Act had not been passed.

Awards as to compensation and maintenance.

XXXIII. And whereas bodies of Taluqdárs have in several cases made awards respecting the provisions to be made for certain relatives of Taluqdárs, and it is expedient to render such awards legally enforceable; it is hereby further enacted that every such award shall, if approved by the Financial Commissioner of Oudh and filed in his Court within six months after the

passing of this Act, be enforceable as if a Court of competent jurisdiction had passed judgment according to the award and a decree had followed upon such judgment.

SCHEDULES.

FIRST SCHEDULE.

(*See Section* 3.)

I.

From C. BEADON, ESQ., Secretary to the Government of India, Foreign Department to C. J. WINGFIELD, ESQ., Chief Commissioner of Oudh,—(No. 6268, dated 10th October, 1859.)

No. 1091, dated the 4th June.
No. 1377, dated the 15th July.

I AM directed by the Governor-General in Council to acknowledge the receipt of your Secretary's letters noted in the margin, relative to the Taluqdárí settlement of Oudh.

2. His Excellency in Council, agreeing with you as to the expediency of removing all doubts as to the intention of the Government to maintain the Taluqdárs in possession of the taluqas for which they have been permitted to engage, is pleased to declare that every Taluqdár with whom a summary settlement has been made since the re-occupation of the province, has thereby acquired a permanent hereditary and transferable proprietary right, *viz.*, in the taluqa for which he has engaged, including the perpetual privilege of engaging with the Government for the revenue of the taluqa.

3. This right is, however, conceded, subject to any measure which the Government may think proper to take for the purpose of protecting the inferior Zemíndárs and village occupants from extortion, and of upholding their rights in the soil in subordination to the Taluqdárs.

4. The Governor-General in Council desires that you will have ready, by His Excellency's arrival at Lucknow, a list of the Taluqdárs upon whom a permanent proprietary right has now been conferred; and that you will prepare sanads to be issued to these Taluqdárs at that time. The sanads will be given by, and will run in the name of, the Chief Commissioner, acting under the authority of the Governor-General.

5. I am directed to add that, as regards Zemíndárs and others, not being Taluqdárs, with whom a summary settlement has been made, the orders conveyed in the limitation Circular No. 31 of the 28th January, 1859, must not be strictly observed. Opportunity must be allowed at the next Settlement to all disappointed claimants to bring forward their claims, and all such claims must be heard and disposed of in the usual manner.

II.

From C. BEADON, Esq., Secretary to the Government of India, Foreign Department, with the Governor-General, to Chief Commissioner, Oudh.—(No. 23, dated 19th October, 1859.)

I am directed by His Excellency the Governor-General to acknowledge the receipt of your demi-official letter of the 15th instant, enclosing a form of sanad to be given to the Taluqdárs of Oudh, granting them a full and permanent proprietary right in the taluqas for which they have severally been permitted to engage at the summary settlement.

2. This form of sanad is generally approved, and a revised copy, with some few alterations, is herewith enclosed for adoption and for careful translation into the Hindustání language, in which the sanads will be prepared.

3. The sanads declare that while, on the one hand, the Government has conferred on the Taluqdárs and on their heirs for ever the full proprietary right in their respective estates, subject only to the payment of the annual revenue that may be imposed from time to time, and to certain conditions of loyality and good service, on the other hand, all persons holding an interest in the land under the Taluqdárs will be secured in the possession of the subordinate rights which they have heretofore enjoyed.

4. The meaning of this is that, when a regular settlement of the province is made, wherever it is found that Zemíndárs or other persons have held an interest in the soil intermediate between the ryot and the Taluqdár, the amount or proportion payable by the intermediate holder to the Taluqdár, and the net jama finally payable by the Taluqdár to the Government, will be fixed and recorded after careful and detailed survey and inquiry into each case, and will remain unchanged during the currency of the settlement, the Taluqdár being, of course, free to improve his income and the value of his property by the reclamation of waste lands (unless in cases where usage has given the liberty of reclamation to the Zemíndár), and by other measures of which he will receive the full benefit at the end of the settlement. Where leases (pattás) are given to the subordinate Zemíndárs, they will be given by the Taluqdár, not by the Government.

5. This being the position in which the Taluqdárs will be placed, they cannot with any show of reason, complain if the Government takes effectual steps to re-establish and maintain in subordination to them the former rights, as those existed in 1855, of other persons whose connexion with the soil is in many cases more intimate and more ancient than theirs; and it is obvious that the only effectual protection which the Government can extend to these inferior holders, is to define and record their rights, and to limit the demand of the Taluqdár as against such person during the currency of the settlement to the amount fixed by the Government as the basis of its own revenue demand.

6. What the duration of the settlement shall be, and what proportion of the rent shall be allowed in each case to Zemíndárs and Taluqdárs, are questions to be determined at the time of settlement.

The Governor-General agrees in your observation that it is a bad principle to create two classes of recognized proprietors in one estate, and it is likely to lead to the alienation of a larger proportion of the land revenue, than if there were only one such class. But whilst the Taluqdári tenure, notwithstanding this drawback, is about to be recognized and re-established, because it is consonant with the feelings and traditions of the whole people of Oudh, the Zemíndarí tenure intermediate between the tenures of the Taluqdár and the ryot is not a new creation, and it is a tenure which, in the opinion of the Governor-General, must be protected.

SECOND SCHEDULE.

(*See Section* 4.)

(1.)—Dig-Bijay Singh, Rájá of Balámpúr.
(2.)—Rao Hardeo Bakhsh Singh, of Katíarí.
(3.)—Káshí Parshád, Taluqdár of Sissendí.
(4.)—Jhabba Singh, Zemíndár of Gopál Khéra.
(5.)—Chandan Lál, Zemíndár of Moraon (Baiswára).

ACT No. II. OF 1869.

1. Short Title.
2. Repealed.
3. Appointment of Justices of the Peace for the Mofussil.
4. Appointment of Justices of the Peace for the presidency towns.
5. Powers and duties of Justices of the Peace.
6. Powers of Justices of the Peace in Native States.
7. Declarations to be taken by Justices of the Peace.
8. Subscriptions to declarations to be kept.
9. Power to suspend or dismiss.
10. Present Justices of the Peace to be deemed to be appointed under this Act.

An Act for the appointment of Justices of the Peace.

Preamble. Whereas it is expedient to consolidate and amend the law relating to the appointment of Justices of the Peace; It is hereby enacted as follows:

Short Title. I. This Act may be called the "Justices of the Peace Act, 1869."

II. *Repealed by the Repealing Act XIV.*, 1870.

Appointment of Justices of the Peace for the Mofussil. III. The Governor-General of India in Council, so far as regards the whole or any part of British India (other than the towns of Calcutta, Madras, and Bombay),

and every local Government, so far as regards the territories subject to its Government or administration (other than the towns aforesaid),

may, by notification in the official Gazette, appoint such and so many of the Covenanted Civil Servants of the Crown in India, or other British inhabitants, as the said Governor-General in Council or the local Government (as the case may be) shall think properly qualified to act as Justices of the Peace within and for the territories mentioned in such notification.

Appointment of Justices of the Peace for the presidency towns.

IV. The Governor-General of India in Council or the local Government, so far as regards the town of Calcutta,

and the Local Government, so far as regards the towns of Madras and Bombay,

may, by notification in the official Gazette, appoint any persons resident within British India and not being the subjects of any foreign State whom such Governor-General in Council or local Government (as the case may be) shall think properly qualified to act as Justices of the Peace within the limits of the town mentioned in such notification.

Powers and duties of Justices of the Peace.

V. All persons appointed under Section 3 or Section 4 shall be Justices of the Peace and shall have authority to act as such, and shall have power to commit for trial European British subjects of Her Majesty to the Court prescribed in that behalf by the law in force for the time being, and shall do all other acts appertaining to the office of Justice of the Peace which under or by virtue of any law in force for the time being may be done by a Justice of the Peace within the said territories or towns as the case may be.

Powers of Justices of the Peace in Native States.

VI. All persons being servants of Government appointed by the Governor-General in Council to act as Justices of the Peace for the whole of British India,

and all persons being servants of Government appointed by a local Government to act as Justices of the Peace for the territories subject to such Government other than the towns aforesaid,

shall, so far as regards European British and Christian subjects of Her Majesty, within the dominions of Princes and States in India in alliance with Her Majesty, have power to act as Justices of the Peace and to commit such subjects for trial according to law.

Declarations to be taken by Justices of the Peace.

VII. Provided that no person other than a person now acting as a Justice of the Peace under a commission shall be capable of acting as a Justice of the Peace until he shall have made and subscribed before some other Justice of the Peace or the chief civil officer of any station within the territories or place in and for which he shall have been appointed, declarations to the following effect:—

"I declare that I will be faithful and bear true allegiance to Her Majesty."

"I declare that I will truly and faithfully discharge the office of a Justice of the Peace."

Subscriptions to declarations to be kept.

VIII. The subscriptions of such persons to the said declarations shall be deposited with and kept by such officer as the Governor-General in Council or the local Government (as the case may be) shall from time to time appoint.

Power to suspend or dismiss.

IX. The Governor-General of India in Council, in the case of any Justice of the Peace appointed by him, and the local Government in the case of any Justice of the Peace appointed by it, may suspend or dismiss any person so appointed.

Present Justices of the Peace to be deemed to be appointed under this Act.

X. Every person now acting as a Justice of the Peace within, and for any part of British India other than the said towns under any commission issued by any of the said High Courts, shall be deemed to have been appointed under Section 3 by the said Governor-General in Council to act as a Justice of the Peace for the whole of British India.

Every person now acting as a Justice of the Peace within the limits of any of the said towns under any such commission shall be deemed to have been appointed under Section 4 by the local Government.

SCHEDULE.

Repealed by the Repealing Act XIV., 1870.

ACT No. III. OF 1869.

1. Short Title.
2. Repealed.
3. Extent of Act.
4. Taxes leviable under this Act.
5. Power to assess house-tax.
6. Time of paying house-tax.
7. Recovery of house-tax.
8. Petition against assessment, complaints of illegal collection.
9 Power to Collector to assess estate of proprietor failing to make sufficient assessment.
10. Power to assess estates
11. Alteration of assessment.
12. Power to levy cess on Muafídárs, Sub-proprietors, and Nazránádárs.
13. Mode and time of paying assessments.
14. Application of taxes levied under this Act.
15. Accounts to be kept.
16. Accounts to be open to public.
17. Failure to keep or furnish accounts.
18. Nomination of village watchmen. Appointment or rejection of nominee.
19. Failure to appoint.
20. Duties of village watchmen.
21. Power to make rules.
22. Power to extend Act.
23. Repeal of inconsistent rules.

An Act for the maintenance of the Rural Police in the North-Western Provinces.

Preamble.

Whereas it is expedient to make further provision for the maintenance of the Rural Police in the North-Western Provinces of the Presidency of Fort William, and to define the law relating to the appointment and duties of village watchmen in those provinces; It is hereby enacted as follows:

I.—PRELIMINARY.

Short Title.

I. This Act may be called "The Rural Police (North-Western Provinces) Act."

II. *Repealed by the Repealing Act XIV.*, 1870.

Extent of Act.

III. This Act extends to every District in which Act II. of 1865 was in force immediately before the passing hereof.

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* Rendered applicable to the Province of Mysore by G. O. No. 254.—See *Gazette of India*, 28th August, 1869, p. 241.

II.—Taxes.

Taxes leviable under this Act.

IV. Three kinds of taxes shall be leviable under this Act (that is to say), 1°, a House Tax; 2°, an Estate Tax; and 3°, a Tax on Muáfídárs, Sub-proprietors and Nazránádárs.

1.°—*The House Tax.*

Power to assess house-tax.

V. The proprietor of every Muáfí, Nazráná, or other estate situate in any District to which this Act applies shall have power to assess and collect in each year from the occupant of every house on such estate, a sum not exceeding one rupee.

The Collector of the District shall have power to determine what shall, for the purposes of this Section, be held to be a house.

Time of paying house-tax.

VI. All sums assessed under Section 5 shall be payable in advance for the revenue year next after the assessment, at the time when the first instalment of rents is ordinarily payable in that year for lands comprised in or adjacent to such estate.

Recovery of house-tax.

VII. All sums so assessed shall be recoverable as if they were rent of land:

Provided that no person shall be liable to be ejected from any house in his occupation for non-payment of any such sum.

Petition against assessment.

VIII. Any person assessed under Section 5, and unable to pay the amount of the assessment, may present a petition on unstamped paper to the Collector of the District, and such Collector may, if he thinks fit, remit wholly or in part the said assessment.

Complaints of illegal collection.

All complaints of illegal collection under Section 5 shall be cognizable by the Collectors of the Land Revenue; and the provisions contained in Act X. of 1859 *(to amend the law relating to the recovery of rent in the Presidency of Bengal)*, Section 23, as to institution, trial and appeal, shall apply to complaints under this Section.

2.°—*The Estate Tax.*

Power to Collector to assess estate of proprietor failing to make sufficient assessment.

IX. If, in any year, any such proprietor fails altogether to assess the sum mentioned in Section 5, or assesses under Section 5 a sum which, in the opinion of the Collector of the District wherein the proprietor's estate is situate, is inadequate, it shall be lawful for such Collector to assess upon such estate a sum payable yearly by the proprietor thereof for the time being, and not exceeding in any year the amount which might have been assessed in the same year under the same Section on the occupants of the houses in such estate, less ten per centum.

Power to assess estates.

X. It shall be lawful for the Collector, or for any officer making a settlement of land-revenue, to assess upon any Muáfí, Nazráná, or other estate situate in any District to which this Act applies, a sum to be paid yearly by the proprietor thereof for the time being not exceeding the aggregate amount of the sums payable in respect of such estate or by the occupants of the houses thereon under Sections 5 and 9, less ten per centum.

Such assessment shall be in addition to the municipal cess or percentage (if any) levied for the maintenance of Rural Police on the land-revenue payable in respect of such estate.

Alteration of assessment.

XI. The sum assessable under Section 10 may from time to time, with the sanction of the local Government, be altered by the Collector or officer aforesaid.

3°.—*The Tax on Muáfidárs, Sub-proprietors, and Nazránádárs*

Power to levy cess on Muáfidárs, Subproprietors, and Názránádárs.

XII. Besides the assessments made under Section 10, it shall be lawful for the Collector or for any such officer as aforesaid, to levy in the case of any Muáfí or Nazráná estate upon the Muáfidárs, or (where a sub-settlement has been made) on the Sub-proprietors, or on the Nazránádárs, a municipal cess on the estimated jama at the same rate as the estate would have been charged with, had it not been held under a Muáfí or Nazráná title.

Mode and time of paying assessments.

XIII. The local Government may from time to time prescribe, by notification in the official Gazette, by what instalments and at what times the assessments payable under Sections 10 and 12 shall be paid, and all sums assessed under either of those Sections shall be recoverable as if they were arrears of revenue.

III.—Application of Taxes.

Application of taxes levied under this Act.

XIV. Subject to the orders of the local Government, all taxes levied under this Act in any District shall, in the first instance, be applied to the maintenance of the village police in such District, and for the purpose of this Section, 'maintenance' shall be deemed to include their wages, the price of all necessaries and accoutrements supplied to them, rewards, and other incidental expenses.

The surplus (if any) may be applied by the local Government, at its discretion, to the sanitary improvement of the District, or to any other useful purpose therein.

IV.—Accounts of Taxes.

Accounts to be kept.

XV. Accounts of the taxes levied under this Act and of the application thereof shall be kept by such persons and in such form, and shall be furnished at such times and to such officers as the local Government shall, by rules to be published in the official Gazette, from time to time, prescribe.

Accounts to be open to public.

XVI. Such accounts shall be open to public inspection at all reasonable times without the payment of any fee.

Failure to keep or furnish accounts.

XVII. Any proprietor failing to comply with any rule made under Section 15, shall be liable, on conviction before a Magistrate, to a fine not exceeding 100 Rupees, and every such fine shall when recovered be applied for the purposes of this Act in the District where it is imposed.

V.—Village Watchmen.

Nomination of village watchmen.

XVIII. Every person authorized to nominate a person to the office of village watchman shall, within fifteen days after the occurrence of a vacancy in the office, nominate a proper person to the vacant post, and communicate the nomination to the Magistrate of the District.

The person so nominated shall, after due enquiry into his age, character and ability, be appointed or rejected by such Magistrate at his discretion, or by some officer authorized by him in that behalf.

Appointment or rejection of nominee.

XIX. In default of such nomination within the said fifteen days, the Magistrate of the District shall appoint such person as he thinks fit to the vacancy.

Failure to appoint.

If the nomination has been made within the said fifteen days, but the nominee is rejected, the person authorized to nominate a person to the office of village watchman shall, within fifteen days from the date of such rejection, nominate another person to the vacant post; and in default of such nomination, or if such nomination has been made but the nominee is rejected, the Magistrate of the District shall appoint such person as he thinks fit to the vacancy.

XX. Any village watchman appointed under this Act shall be liable to perform within the limits of his village, and in addition to his other duties, all or any of the duties, imposed on Police Officers by Act V. of 1861 *(for the regulation of Police)*; and for any neglect or disobedience in his official capacity, he shall be liable to the penalties which he would have incurred had he been a Police officer subject to the provisions of that Act and guilty of neglect of disobedience as the case might be.

Duties of village watchmen.

VI.—MISCELLANEOUS.

XXI. The local Government may, from time to time, make rules consistent with this Act, for the guidance of officers in all matters connected with its enforcement.

Power to make rules.

All such rules shall be published in the local official Gazette.

XXII. The Lieutenant-Governor of the North-Western Provinces and the Lieutenant-Governor of the Punjab may respectively, by notification in the local Gazette, extend this Act to any part of the territories for the time being under their respective governments; and the Governor-General of India in Council may, by notification in the *Gazette of India*, extend this Act to any province for the time being under the immediate administration of the Government of India:

Power to extend Act.

Provided that this Act shall have no operation in any village to which Act XX. of 1856 *(to make better provision for the appointment and maintenance of Police Chowkeedars in cities, towns, stations, suburbs and bazars in the Presidency of Fort William in Bengal,)* or Act VI. of 1868 *(to make better provision for the appointment of Municipal Committees in the North-Western Provinces, and for other purposes)*, or any other special municipal law shall have been extended, so long as such Act or law continues in force in such village.

XXIII. From the date of any such extension of this Act, so much of any rule having the force of law in operation in the territories to which the extension is made as is inconsistent with any provision of this Act, shall cease to have effect therein.

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THE INDIAN DIVORCE ACT, 1869.

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An Act to amend the law relating to Divorce and Matrimonial causes in India.

Preamble.

Whereas it is expedient to amend the law relating to the divorce of persons professing the Christian religion, and to confer upon certain Courts jurisdiction in matters matrimonial; It is hereby enacted as follows:

I.—Preliminary.

Short Title.

Commencement of Act.

I. This Act may be called "The Indian Divorce Act," and shall come into operation on the 1st day of April, 1869.

Extent of Act.

II. This Act shall extend to the whole of British India, and (so far only as regards British subjects within the dominions hereinafter mentioned) to the dominions of Princes and States in India in alliance with Her Majesty.

Extent of power to grant relief generally.

Nothing hereinafter contained shall authorize any Court to grant any relief under this Act, except in cases where the petitioner professes the Christian religion and resides in India at the time of presenting the petition;

And to make decrees of dissolution.

or to make decrees of dissolution of marriage except in the following cases:—(*a*) where the marriage shall have been solemnized in India; or (*b*) where the adultery, rape, or unnatural crime complained of, shall have been committed in India; or (*c*) where the husband has, since the solemnization of the marriage, exchanged his profession of Christianity for the profession of some other form of religion;

Or of nullity.

or to make decrees of nullity of marriage except in cases where the marriage has been solemnized in India.

Interpretation Clause.

III. In this Act—unless there be something repugnant in the subject or context—

"High Court."

(1.) "High Court" means in any Regulation Province the Court there established under the Act of the twenty-fourth and twenty-fifth of Victoria, Chapter one hundred and four,

in the territories for the time being subject to the Government of the Lieutenant-Governor of the Punjab, the Chief Court of the Punjab,

in British Burmah, the High Court of Judicature at Fort William in Bengal,

and in any other Non-Regulation Province and in any place in the dominion of the Provinces and States of India in alliance with Her Majesty, the High Court or Chief Court to whose original criminal jurisdiction the petitioner is for the time being subject, or would be subject if he or she were an European British subject of Her Majesty:

In the case of any petition under this Act, 'High Court' is that one of of the aforesaid Courts within the local limits of whose ordinary appellate jurisdiction, or of whose jurisdiction under this Act, the husband and wife reside or last resided together:

"District Judge."

(2.) "District Judge" means, in the Regulation Provinces, a Judge of a Principal Civil Court of original jurisdiction,

in the Non-Regulation Provinces, other than British Burmah and Sind, a Commissioner of a Division,

in Pegu, the Recorder at Rangoon,

in Arrakan, the Recorder at Rangoon until a Recorder's Court is established at Akyab, and theneforward the Recorder at Akyab,

in the Tenasserim Provinces, the Recorder at Moulmain,

in Sind, the Judicial Commissioner in that Province,

and in any place in the dominions of the Princes and States aforesaid, such officer as the Governor-General of India in Council shall from time to time appoint in this behalf by notification in the *Gazette of India*, and, in the absence of such officer, the High Court in the exercise of its original jurisdiction under this Act:

"District Court."

(3.) "District Court" means, in the case of any petition under this Act, the Court of the District Judge within the local limits of whose ordinary jurisdiction, or of whose jurisdiction under this Act, the husband and wife reside or last resided together:

"Court."

(4.) "Court" means the High Court or the District Court, as the case may be:

"Minor children."

(5.) "Minor children" means, in the case of sons of Native fathers, boys who have not completed the age of sixteen years, and, in the case of daughters of Native fathers, girls who have not completed the age of thirteen years: In other cases it means unmarried children who have not completed the age of eighteen years:

"Incestuous adultery"

(6.) "Incestuous adultery" means adultery committed by a husband with a woman with whom, if his wife were dead, he could not lawfully contract marriage by reason of her being within the prohibited degrees of consanguinity (whether natural or legal) or affinity:

"Bigamy with adultery."

(7.) "Bigamy with adultery" means adultery with the same woman with whom the bigamy was committed:

"Marriage with another woman."

(8.) "Marriage with another woman" means marriage of any person, being married, to any other person, during the life of the former wife, whether the second marriage shall have taken place within the dominions of Her Majesty or elsewhere:

"Desertion."

(9.) "Desertion" implies an abandonment against the wish of the person charging it; and

"Property."

(10.) "Property" includes in the case of a wife any property to which she is entitled for an estate in remainder or reversion or as a trusteee, executrix or administratrix; and the date of the death of the testator or intestate shall be deemed to be the time at which any such wife becomes entitled as executrix or administratrix.

II.—Jurisdiction.

Matrimonial jurisdiction of High Courts to be exercised subject to this Act.

IV. The jurisdiction now exercised by the High Courts in respect of divorce *a mensâ et toro*, and in all other causes, suits and matters matrimonial, shall be exercised by such Courts and by the District Courts subject to the provisions in this Act contained, and not otherwise:

Exception.

except so far as relates to the granting of marriage-licenses, which may be granted as if this Act had not been passed.

Enforcement of decrees or orders made heretofore by any Supreme or High Court.

V. Any decree or order of the late Supreme Court of Judicature at Calcutta, Madras, or Bombay, sitting on the ecclesiastical side, or of any of the said High Courts sitting in the exercise of their matrimonial jurisdiction, respectively, in any cause or matter matrimonial, may be enforced and dealt with by the said High Courts, respectively, as hereinafter mentioned, in like manner as if such decree or order had been originally made under this Act by the Court so enforcing or dealing with the same.

Pending suits.

VI. All suits and proceedings in causes and matters matrimonial which, when this Act comes into operation are pending in any High Court, shall be dealt with and decided by such Court, so far as may be, as if they had been originally instituted therein under this Act.

Court to act on principles of English Divorce Court.

VII. Subject to the provisions contained in this Act, the High Courts and District Courts shall, in all suits and proceedings hereunder, act and give relief on principles and rules which, in the opinion of the said Courts, are as nearly as may be conformable to the principles and rules on which the Court for Divorce and Matrimonial Causes in England for the time being acts and gives relief.

Extraordinary jurisdiction of High Court.

VIII. The High Court may, whenever it thinks fit, remove and try and determine as a Court of original jurisdiction any suit or proceeding instituted under this Act in the Court of any District Judge within the limits of its jurisdiction under this Act.

Power to transfer suits.

The High Court may also withdraw any such suit or proceeding, and transfer it for trial or disposal to the Court of any other such District Judge.

Reference to High Courts.

IX. When any question of law or usage having the force of law arises at any point in the proceedings previous to the hearing of any suit under this Act by a District Court or at any subsequent stage of such suit, or in the execution of the decree therein or order thereon,

the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the case and refer it, with the Court's own opinion thereon, to the decision of the High Court.

If the question has arisen previous to or in the hearing, the District Court may either stay such proceedings, or proceed in the case pending such reference, and pass a decree contingent upon the opinion of the High Court upon it.

If a decree or order has been made, its execution shall be stayed until the receipt of the order of the High Court upon such reference.

III.—Dissolution of Marriage.

When husband may petition for dissolution.

X. Any husband may present a petition to the District Court or to the High Court, praying that his marriage may be dissolved on the ground that his wife has, since the solemnization thereof, been guilty of adultery.

When wife may petition for a dissolution.

Any wife may present a petition to the District Court or to the High Court, praying that her marriage may be dissolved on the grounds that, since the solemnization thereof, her husband has exchanged his profession of Christianity for the profession of some other religion, and gone through a form of marriage with another woman;

or has been guilty of incestuous adultery,

or of bigamy with adultery,

or of marriage with another woman with adultery,

or of rape, sodomy, or bestiality,

or of adultery coupled with such cruelty as without adultery would have entitled her to a divorce *a mensâ et toro*,

or of adultery coupled with desertion, without reasonable excuse, for two years or upwards.

Contents of petition.

Every such petition shall state, as distinctly as the nature of the case permits, the facts on which the claim to have such marriage dissolved is founded.

Adulterer to be a co-respondent.

XI. Upon any such petition presented by a husband, the petitioner shall make the alleged adulterer a co-respondent to the said petition, unless he is excused from so doing on one of the following grounds, to be allowed by the Court:—

(1.)—That the respondent is leading the life of a prostitute, and that the petitioner knows of no person with whom the adultery has been committed.

(2.)—That the name of the alleged adulterer is unknown to the petitioner, although he has made due efforts to discover it.

(3.)—That the alleged adulterer is dead.

Court to be satisfied of absence of collusion.

XII. Upon any such petition for the dissolution of a marriage, the Court shall satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or not the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage

or the adultery, or has condoned the same, and shall also enquire into any countercharge which may be made against the petitioner.

Dismissal of petition.

XIII. In case the Court, on the evidence in relation to any such petition, is satisfied that the petitioner's case has not been proved, or is not satisfied that the alleged adultery has been committed,

or finds that the petitioner has, during the marriage, been accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents,

then and in any of the said cases the Court shall dismiss the petition.

When a petition is dismissed by a District Court under this Section, the petitioner may, nevertheless, present a similar petition to the High Court.

Power to Court to pronounce decree for dissolving marriage.

XIV. In case the Court is satisfied on the evidence that the case of the petitioner has been proved,

and does not find that the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents,

the Court shall pronounce a decree declaring such marriage to be dissolved in the manner and subject to all the provisions and limitations in Sections 16 and 17 made and declared:

Provided that the Court shall not be bound to pronounce such decree if it finds that the petitioner has, during the marriage, been guilty of adultery,

or if the petitioner has, in the opinion of the Court, been guilty of unreasonable delay in presenting or prosecuting such petition,

or of cruelty towards the other party to the marriage,

or of having deserted or wilfully separated himself or herself from the other party before the adultery complained of, and without reasonable excuse,

or of such wilful neglect or misconduct of or towards the other party as has conduced to the adultery.

Condonation.

No adultery shall be deemed to have been condoned within the meaning of this Act unless where conjugal cohabitation has been resumed or continued.

Relief in case of opposition on certain grounds.

XV. In any suit instituted for dissolution of marriage, if the respondent opposes the relief sought on the ground, in case of such a suit instituted by a husband, of his adultery, cruelty, or desertion without reasonable excuse, or, in case of such a suit instituted by a wife, on the ground of her adultery and cruelty, the Court may in such suit give to the respondent, on his or her application, the same relief to which he or she would have been entitled in case he or she had presented a petition seeking such relief, and the respondent shall be competent to give evidence of or relating to such cruelty or desertion.

XVI. Every decree for a dissolution of marriage made by a High

Decrees for dissolution to be nisi.

Court not being a confirmation of a decree of a District Court, shall, in the first instance, be a decree *nisi*, not to be made absolute till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court, by general or special order from time to time, directs.

Collusion.

During that period any person shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to show cause why the said decree should not be made absolute by reason of the same having been obtained by collusion or by reason of material facts not being brought before the Court.

On cause being so shown, the Court shall deal with the case by making the decree absolute, or by reversing the decree *nisi*, or by requiring further inquiry, or otherwise as justice may demand.

The High Court may order the costs of counsel and witnesses and otherwise arising from such cause being shown, to be paid by the parties or such one or more of them as it thinks fit, including a wife if she have separate property.

Whenever a decree *nisi* has been made, and the petitioner fails, within a reasonable time, to move to have such decree made absolute, the High Court may dismiss the suit.

Confirmation of decree for dissolution by District Judge.

XVII. Every decree for a dissolution of marriage made by a District Judge shall be subject to confirmation by the High Court.

Cases for confirmation of a decree for dissolution of marriage shall be heard (where the number of the Judges of the High Court is three or upwards) by a Court composed of three such Judges, and in case of difference the opinion of the majority shall prevail, or (where the number of the Judges of the High Court is two) by a Court composed of such two Judges, and in case of difference the opinion of the senior Judge shall prevail.

The High Court, if it think further enquiry or additional evidence to be necessary, may direct such enquiry to be made, or such evidence to be taken.

The result of such enquiry and the additional evidence shall be certified to the High Court by the District Judge, and the High Court shall thereupon make an order confirming the decree for dissolution of marriage, or such other order as to the Court seems fit:

Provided that no decree shall be confirmed under this Section till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court by general or special order from time to time directs.

During the progress of the suit in the Court of the District Judge, any person suspecting that any parties to the suit are or have been acting in collusion for the purpose of obtaining a divorce, shall be at liberty, in such manner as the High Court, by general or special order from time to time, directs, to apply to the High Court to remove the suit under Section 8, and the High Court shall thereupon, if it think fit, remove such suit and try and determine the same as a Court of original jurisdiction, and the provisions contained in Section 16 shall apply to every suit so removed: or it may direct the District Judge to take such steps in respect of the alleged collusion as may be neces-

sary to enable him to make a decree in accordance with the justice of the case.

VI.—Nullity of Marriage.

Petition for decree of nullity.

XVIII. Any husband or wife may present a petition to the District Court or to the High Court, praying that his or her marriage may be declared null and void.

Grounds of decree.

XIX. Such decree may be made on any of the following grounds:—

(1.)—That the respondent was impotent at the time of the marriage and at the time of the institution of the suit;

(2.)—That the parties are within the prohibited degrees of consanguinity (whether natural or legal) or affinity;

(3.)—That either party was a lunatic or idiot at the time of the marriage;

(4.)—That the former husband or wife of either party was living at the time of the marriage, and the marriage with such former husband or wife was then in force.

Nothing in this Section shall affect the jurisdiction of the High Court to make decrees of nullity of marriage on the ground that the consent of either party was obtained by force or fraud.

Confirmation of District Judge's decree.

XX. Every decree of nullity of marriage made by a District Judge shall be subject to confirmation by the High Court, and the provisions of Section 17, Clauses 1, 2, 3, and 4, shall, *mutatis mutandis*, apply to such decrees.

Children of annulled marriage.

XXI. Where a marriage is annulled on the ground that a former husband or wife was living, and it is adjudged that the subsequent marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, or when a marriage is annulled on the ground of insanity, children begotten before the decree is made shall be specified in the decree, and shall be entitled to succeed in the same manner as legitimate children, to the estate of the parent who at the time of the marriage was competent to contract.

V.—Judicial Separation.

No decree for divorce a mensâ et toro to be made.

Decree of judicial separation obtainable by husband and wife.

XXII. No decree shall hereafter be made for a divorce *a mensâ et toro*, but the husband or wife may obtain a decree of judicial separation, on the ground of adultery, or cruelty, or desertion without reasonable excuse for two years or upwards, and such decree shall have the effect of a divorce *a mensa et toro* under the existing law, and such other legal effect as hereinafter mentioned.

Application for separation made by petition.

XXIII. Application for judicial separation on any one of the grounds aforesaid, may be made by either husband or wife by petition to the District Court or the High Court; and the Court on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly.

XXIV. In every case of a judicial separation under this Act, the

Separated wife to be deemed a spinster with respect to after-acquired property.

wife shall, from the date of the sentence, and whilst the separation continues, be considered as unmarried with respect to property of every description which she may acquire, or which may come to or devolve upon her.

Such property may be disposed of by her in all respects as an unmarried woman, and on her decease the same shall, in case she dies intestate, go as the same would have gone if her husband had been then dead:

Provided that, if any such wife again cohabits with her husband, all such property as she may be entitled to when such cohabitation takes place shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

Separated wife to be deemed a spinster for purposes of contract and suing.

XXV. In every case of a judicial separation under this Act, the wife shall, whilst so separated, be considered as an unmarried woman for the purposes of contract, and wrongs and injuries, and suing and being sued in any civil proceeding; and her husband shall not be liable in respect of any contract, act or costs entered into, done, omitted or incurred by her during the separation:

Provided that where, upon any such judicial separation, alimony has been decreed or ordered to be paid to the wife, and the same is not duly paid by the husband, he shall be liable for necessaries supplied for her use:

Provided, also, that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband.

Reversal of decree of Separation.

Decree of separation obtained during the absence of husband or wife may be reversed.

XXVI. Any husband or wife, upon the application of whose wife or husband, as the case may be, a decree or judicial separation has been pronounced, may, at any time thereafter, present a petition to the Court by which the decree was pronounced, praying for a reversal of such decree, on the ground that it was obtained in his or her absence, and that there was reasonable excuse for the alleged desertion, where desertion was the ground of such decree.

The Court may, on being satisfied of the truth of the allegations of such petition, reverse the decree accordingly; but such reversal shall not prejudice or affect the rights or remedies which any other person would have had, in case it had not been decreed, in respect of any debts, contracts, or acts of the wife incurred, entered into, or done between the times of the sentence of separation and of the reversal thereof.

VI.—Protection Orders.

Deserted wife may apply to the Court for protection.

XXVII. Any wife to whom the fourth Section of the Indian Succession Act, 1865, does not apply, may, when deserted by her husband, present a petition to the District Court or the High Court, at any time after such desertion, for an order to protect any property which she may have acquired or may acquire, and any property of which she may have become possessed or may become possessed after such desertion, against her husband or his creditors, or any person claiming under him.

Court may grant protection-order.

XXVIII. The Court, if satisfied of the fact of such desertion, and that the same was without reasonable excuse, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and other property from her husband, and all creditors and persons claiming under him. Every such order shall state the time at which the desertion commenced, and shall, as regards all persons dealing with the wife in reliance thereon, be conclusive as to such time.

Discharge or variation of orders.

XXIX The husband or any creditor of, or person claiming under him, may apply to the Court by which such order was made for the discharge or variation thereof, and the Court, if the desertion has ceased, or if for any other reason it think fit so to do, may discharge or vary the order accordingly.

Liability of husband seizing his wife's property after notice of order.

XXX. If the husband or any creditor of, or person claiming under, the husband seizes or continues to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife (which she is hereby empowered to bring), to return or deliver to her the specific property, and also to pay her a sum equal to double its value.

Wife's legal position during continuance of order.

XXXI. So long as any such order of protection remains in force, the wife shall be and be deemed to have been, during such desertion of her, in the like position in all respects, with regard to property and contracts and suing and being sued, as she would be under this Act if she obtained a decree of judicial separation.

VII.—Restitution of Conjugal Rights.

Petition for restitution of conjugal rights.

XXXII. When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, either wife or husband may apply, by petition to the District Court or the High Court, for restitution of conjugal rights, and the Court on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

Answer to petition.

XXXIII. Nothing shall be pleaded in answer to a petition for restitution of conjugal rights, which would not be ground for a suit for judicial separation or for a decree of nullity of marriage.

VIII.—Damages and Costs.

Husband may claim damages from adulterer.

XXXIV. Any husband may, either in a petition for dissolution of marriage or for judicial separation, or in a petition to the District Court or the High Court limited to such object only, claim damages from any person on the ground of his having committed adultery with the wife of such petitioner.

Such petition shall be served on the alleged adulterer and the wife, unless the Court dispenses with such service, or directs some other service to be substituted.

The damages to be recovered on any such petition shall be ascertained by the said Court, although the respondents or either of them may not appear.

After the decision has been given, the Court may direct in what manner such damages shall be paid or applied..

Power to order adulterer to pay costs.

XXXV. Whenever in any petition presented by a husband the alleged adulterer has been made a co-respondent, and the adultery has been established, the Court may order the co-respondent to pay the whole or any part of the costs of the procedings:

Provided that the co-respondent shall not be ordered to pay the petitioner's costs

(1) if the respondent was at the time of adultery living apart from her husband and leading the life of a prostitute, or

(2) if the co-respondent had not at the time of the adultery reason to believe the respondent to be a married woman.

Power to order litigious intervenor to pay costs.

Whenever any application is made under Section 17, the Court, if it thinks that the applicant had no grounds or no sufficient grounds for intervening, may order him to pay the whole or any part of the costs occasioned by the application.

IX.—Alimony.

Alimony pendente lite.

XXXVI. In any suit under this Act, whether it be instituted by a husband or a wife, and whether or not she has obtained an order of protection, the wife may present a petition for alimony pending the suit.

Such petition shall be served on the husband; and the Court, on being satisfied of the truth of the statements therein contained, may make such order on the husband for payment to the wife of alimony pending the suit as it may deem just:

Provided that alimony pending the suit shall in no case exceed one-fifth of the husband's average nett income for the three years next preceding the date of the order, and shall continue, in case of a decree for dissolution of marriage or of nullity of marriage, until the decree is made absolute or is confirmed, as the case may be.

Power to order permanent alimony.

XXXVII. The High Court may, if it think fit on any decree absolute declaring a marriage to be dissolved, or on any decree of judicial separation obtained by the wife,

and the District Judge may, if he thinks fit, on the confirmation of any decree of his declaring a marriage to be dissolved, or on any decree of judicial separation obtained by the wife,

order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum of money, or such annual sum of money for any term not exceeding her own life, as, having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties, it thinks reasonable; and for that purpose may cause a proper instrument to be executed by all necessary parties.

Power to order monthly or weekly payments.

In every such case the Court may make an order on the husband for payment to the wife of such monthly or weekly sums for her maintenance and support as the Court may think reasonable:

Provided that, if the husband afterwards from any cause becomes unable to make such payments, it shall be lawful for the Court to discharge or modify the order, or temporarily to suspend the same as to the whole or any part of the money so ordered to be paid, and again to revive the same order wholly or in part, as to the Court seems fit.

Court may direct payment of alimony to wife or to her trustee.

XXXVIII. In all cases in which the Court makes any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court seem expedient, and may from time to time appoint a new trustee, if it appears to the Court expedient so to do.

X.—Settlements.

Power to order settlement of wife's property for benefit of husband and children.

XXXIX. Whenever the Court pronounces a decree of dissolution of marriage or judicial separation for adultery of the wife, if it is made to appear to the Court that the wife is entitled to any property, the Court may, if it think fit, order such settlement as it thinks reasonable to be made of such property or any part thereof, for the benefit of the husband, or of the children of the marriage, or of both.

Any instrument executed pursuant to any order of the Court at the time of or after the pronouncing of a decree of dissolution of marriage or judicial separation, shall be deemed valid notwithstanding the existence of the disability of coverture at the time of the execution thereof.

Settlements or damages.

The Court may direct that the whole or any part of the damages recovered under Section 34 shall be settled for the benefit of the children of the marriage, or as a provision for the maintenance of the wife.

Inquiry into existence of ante-nuptial or post-nuptial settlements.

XL. The High Court, after a decree absolute for dissolution of marriage, or a decree of nullity of marriage,

and the District Court, after its decree for dissolution of marriage or of nullity of marriage has been confirmed,

may inquire into the existence of ante-nuptial or port-nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders, with reference to the application of the whole or a portion of the property settled, whether for the benefit of the husband or the wife, or of the children (if any) of the marriage, or of both children and parents, as to the Court seems fit:

Provided that the Court shall not make any order for the benefit of the parents or either of them at the expense of the children.

XI.—Custody of Children.

Power to make orders as to custody of children in suit for separation.

XLI. In any suit for obtaining a judicial separation the Court may from time to time, before making its decree, make such interim orders, and may make such provision in the decree, as it deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of such suit, and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the said Court.

Power to make such orders after decree.

XLII. The Court, after a decree of judicial separation, may upon application (by petition) for this purpose make, from time to time, all such orders and provision, with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents is the subject of the decree, or for placing such children under the protection of the said Court, as might have been made by such decree or by interim orders in case the proceedings for obtaining such decree were still pending.

Power to make orders as to custody of children in suits for dissolution or nullity.

XLIII. In any suits for obtaining a dissolution of marriage or a decree of nullity of marriage instituted in, or removed to, a High Court, the Court may from time to time, before making its decree absolute or its decree (as the case may be) make such interim orders, and may make such provision in the decree absolute or decree,

and in any such suit instituted in a District Court, the Court may from time to time, before its decree is confirmed, make such interim orders, and may make such provision on such confirmation,

as the High Court or District Court (as the case may be) deems proper with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents is the subject of the suit;

and may, if it think fit, direct proceedings to be taken for placing such children under the protection of the Court.

Power to make such orders after decree or confirmation.

XLIV. The High Court after a decree absolute for dissolution of marriage or a decree of nullity of marriage,

and the District Court after a decree for dissolution of marriage or of nullity of marriage has been confirmed,

may, upon application by petition for the purpose, make from time to time all such orders and provision, with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents was the subject of the decree, or for placing such children under the protection of the said Court, as might have been made by such decree absolute or decree (as the case may be), or by such interim orders as aforesaid.

XII.—Procedure.

Code of Civil Procedure to apply.

XLV. Subject to the provisions herein contained, all proceedings under this Act between party and party shall be regulated by the Code of Civil Procedure.

Forms of petitions and statements.

XLVI. The forms set forth in the Schedule to this Act, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such Schedule.

Stamp on petition.

Petition to state absence of collusion.

XLVII. Every petition under this Act for a decree of dissolution of marriage, or of nullity of marriage, or of judicial separation, **or of reversal of judicial separation, or for restitution of conjugal rights, or for damages, shall bear a stamp of five Rupees, and shall, in the first, second, and third cases mentioned in this Section,* state that there is not any collusion or connivance between the petitioner and the other party to the marriage.

* The words in Italics are repealed by Act VII., 1870, Section 2, Schedule 3.

Statements to be verified.

The statements contained in every petition under this Act shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints, and may at the hearing be referred to as evidence.

Suits on behalf of lunatics.

XLVIII. When the husband or wife is a lunatic or idiot, any suit under this Act (other than a suit for restitution of conjugal rights) may be brought on his or her behalf by the committee or other person entitled to his or her custody.

Suit by minors.

XLIX. Where the petitioner is a minor, he or she shall sue by his or her next friend to be approved by the Court; and no petition presented by a minor under this Act shall be filed until the next friend has undertaken in writing to be answerable for costs.

Such undertaking **shall bear a stamp of eight annas*, and shall be filed in Court, and the next friend shall thereupon be liable in the same manner and to the same extent as if he were a plaintiff in an ordinary suit.

Service of petition.

L. Every petition under this Act shall be served on the party to be affected thereby, either within or without British India, in such manner as the High Court by general or special order from time to time directs:

Provided that the Court may dispense with such service altogether in case it seems necessary or expedient so to do.

Mode of taking evidence.

LI. The witnesses in all proceedings before the Court, where their attendance can be had, shall be examined orally, and any party may offer himself or herself as a witness, and shall be examined, and may be cross-examined and re-examined, like any other witness:

Provided that the parties shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall on the applicatiou of the opposite party, or by direction of the Court, be subject to be cross-examined by or on behalf of the opposite party orally, and after such cross-examination may be re-examined orally as aforesaid by or on behalf of the party by whom such affidavit was filed.

Competence of husband and wife to give evidence as to cruelty or desertion.

LII. On any petition presented by a wife, praying that her marriage may be dissolved by reason of her husband having been guilty of adultery coupled with cruelty, or of adultery coupled with desertion without reasonable excuse, the husband and wife respectively shall be competent and compellable to give evidence of or relating to such cruelty or desertion.

Power to close doors.

LIII. The whole or any part of any proceeding under this Act may be heard, if the Court thinks fit, with closed doors.

Power to adjourn.

LIV. The Court may from time to time adjourn the hearing of any petition under this Act, and may require further evidence thereon, if it sees fit so to do.

Enhancement of and appeals from orders and decrees.

LV. All decrees and orders made by the Court in any suit or proceeding under this Act shall be enforced and may be appealed from, in the like manner as the decrees and orders of the Court made in the exercise of its

* The words in Italics are repealed by Act VII., 1870, Section 2, Schedule 3.

original civil jurisdiction are enforced, and may be appealed from under the laws, rules and orders from the time being in force:

Provided that there shall be no appeal from a decree of a District Judge for dissolution of marriage or of nullity of marriage: nor from the order of the High Court confirming or refusing to confirm such decree:

No appeal as to costs.

Provided also that there shall be no appeal on the subject of costs only.

Appeal to Queen in Council.

LVI. Any person may appeal to Her Majesty in Council from any decree (other than a decree *nisi*) or order under this Act of a High Court made on appeal or otherwise,

and from any decree (other than a decree *nisi*) or order made in the exercise of original jurisdiction by Judges of a High Court or of any Division Court from which an appeal shall not lie to the High Court,

when the High Court declares that the case is a fit one for appeal to Her Majesty in Council.

XIII.—Re-marriage.

Liberty to parties to marry again.

LVII. When six months after the date of an order of a High Court confirming the decree for a dissolution of marriage made by a District Judge have expired,

or when six months after the date of any decree of a High Court dissolving a marriage have expired, and no appeal has been presented against such decree to the High Court in its appellate jurisdiction,

or when any such appeal has been dismissed,

or when in the result of any such appeal any marriage is declared to be dissolved,

but not sooner, it shall be lawful for the respective parties to the marriage to marry again, as if the prior marriage had been dissolved by death:

Provided that no appeal to Her Majesty in Council has been presented against any such order of decree.

When such appeal has been dismissed, or when in the result thereof the marriage is declared to be dissolved, but not sooner, it shall be lawful for the respective parties to the marriage to marry again as if the prior marriage had been dissolved by death.

English clergyman not compelled to solemnize marriages of persons divorced for adultery.

LVIII. No clergyman in Holy Orders of the United Church of England and Ireland shall be compelled to solemnize the marriage of any person whose former marriage has been dissolved, on the ground of his or her adultery, or shall be liable to any suit, penalty or censure for solemnizing or refusing to solemnize the marriage of any such person.

English Minister refusing to perform ceremony to permit use of his Church.

LIX. When any Minister of any Church or Chapel of the said United Church refuses to perform such marriage-service between any persons who but for such refusal would be entitled to have the same service performed in such Church or Chapel, such Minister shall permit any other minister in Holy Orders of the said Church, entitled to officiate within the diocese in which such Church or Chapel is situate, to perform such marriage-service in such Church or Chapel.

XIV.—Miscellaneous.

Decree for separation or protection-order to be valid as to persons dealing with wife before reversal.

LX. Every decree for judicial separation or order to protect property, obtained by a wife under this Act shall, until reversed or discharged, be deemed valid, so far as necessary, for the protection of any person dealing with the wife.

No reversal, discharge or variation of such decree or order shall affect any rights or remedies which any person would otherwise have had in respect of any contracts or acts of the wife entered into or done between the dates of such decree or order, and of the reversal, discharge or variation thereof.

Indemnity of persons making payment to wife without notice of reversal of decree or protection-order.

All persons who in reliance on any such decree or order make any payment to, or permit any transfer or act to be made or done by, the wife who has obtained the same shall, notwithstanding such decree or order may then have been reversed, discharged or varied, or the separation of the wife from her husband may have ceased, or at some time since the making of the decree or order been discontinued, be protected and indemnified as if, at the time of such payment, transfer or other act, such decree or order were valid and still subsisting without variation, and the separation had not ceased or been discontinued,

unless, at the time of the payment, transfer or other act, such persons had notice of the reversal, discharge or variation of the decree or order or of the cessation or discontinuance of the separation.

Bar of suit for criminal conversation.

LXI. After this Act comes into operation, no person competent to present a petition under Sections 2 and 10 shall maintain a suit for criminal conversation with his wife.

Powers to make rules.

LXII. The High Court shall make such rules under this Act as it may from time to time consider expedient, and may from time to time alter and add to the same:

Provided that such rules, alterations and additions are consistent with the provisions of this Act and the Code of Civil Procedure.

All such rules, alterations and additions shall be published in the local official Gazette.

SCHEDULE OF FORMS.

No. 1.—PETITION *by husband for a dissolution of marriage with damages against co-respondent, by reason of adultery.*
(*See Sections* 10 *and* 34.)

In the (High) Court of————
To the Hon'ble Mr. Justice————[*or* To the Judge of————]
The————day of————186—
The petition of *A. B.* of————

SHEWETH,

1. That your petitioner was on the————day of————, one thousand eight hundred and————, lawfully married to *C. B.*, then *C. D.*, spinster at——(*)

2. That from his said marriage, your petitioner lived and cohabited with his said wife at————and at————, in————, and lastly at————, in————, and that your petitioner and his said wife have had issue of their said marriage, *five* children, of whom *two* sons only survive, aged respectively *twelve* and *fourteen* years.

(*) If the marriage was solemnized out of India, the adultery must be shewn to have been committed in India.

3. That during the *three* years immediately preceding the——day of—— one thousand eight hundred and——, *X. Y.* was constantly, with few exceptions, residing in the house of your petitioner at——aforesaid, and that on divers occasions during the said period, the dates of which are unknown to your petitioner, the said *C. B.* in your petitioner's said house committed adultery with the said *X. Y.*

4. That no collusion or connivance exists between me and my said wife for the purpose of obtaining a dissolution of our said marriage or for any other purpose.

Your petitioner, therefore, prays that this (Hon'ble) Court will decree a dissolution of the said marriage, and that the said *X. Y.* do pay the sum of 5,000 Rupees as damages by reason of his having committed adultery with your petitioner's said wife, such damages to be paid to your petitioner, or otherwise paid or applied as to this Hon'ble Court seems fit.

(Signed) *A. B.* (*)

Form of Verification.

I, *A. B.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

No. 2.—Respondent's statement in answer to No. 1.

In the Court of——the——day of——

Between *A. B.*, petitioner,
C. B., respondent, and
X. Y., co-respondent.

C. B., the respondent, by *D. E.* her attorney [*or* vakíl] in answer to the petition of *A. B.* says that she denies that she has on divers or any occasions committed adultery with *X. Y.*, as alleged in the third paragraph of the said petition.

Wherefore the respondent prays that this (Hon'ble) Court will reject the said petition.

(Signed) *C. B.*

No. 3.—Co-respondent's statement in answer to No. 1.

In the High Court of——

The——day of——

Between *A. B*, petitioner,
C. B., respondent, and
X Y., co-respondent.

X. Y., the co-respondent, in answer to the petition filed in this cause, saith that he denies that he committed adultery with the said *C. B.* as alleged in the said petition.

Wherefore the said *X. Y.* prays that this (Hon'ble) Court will reject the prayer of the said petitioner, and order him to pay the costs of, and incident to, the said petition.

(Signed) *X. Y.*

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*No. 4.—*PETITION *for Decree of Nullity of Marriage.*

(See Section 18).

In the (High) Court of——

To the Hon'ble Mr. Justice——[or To the Judge of——]

The——day of——, 186——

The petition of *A. B.* falsely called *A. D.*,

SHEWETH,

1. That on the——day of——, one thousand eight hundred and—— your petitioner, then a spinster, eighteen years of age, was married, in fact, though not in law, to *C. D.*, then a bachelor of about thirty years of age, at [*some place in India*].

(*) State the respective ages of the children.

2. That from the said——day of——one thousand eight hundred and——.until the month of——— one thousand eight hundred and-——,your petitioner lived and cohabited with the said *C. D.*, at divers places, and particularly at——aforesaid.

3. That the said *C. D.* has never consummated the said pretended marriage by carnal copulation.

4. That at the time of the celebration of your petitioner's said pretended marriage, the said *C. D.* was, by reason of his impotency or malformation, legally incompetent to enter into the contract of marriage.

5. That there is no collusion or connivance between her and the said *C. D.* with respect to the subject of this suit.

Your petitioner, therefore, prays that this (Hon'ble) Court will declare that the said marriage is null and void. (Signed) *A. B.*

From of Verification: *See No.* 1.

No. 5.—PETITION *by wife for judicial separation on the ground of her husband's adultery.*

(*See Section* 22.)

In the (High) Court of-——

To the Hon'ble Mr. Justice———[*or* To the Judge of——]

The——day of——186—

The petition of *C. B.*, of——the wife of *A. B.*

SHEWETH,

1. That on the———day of———one thousand eight hundred and *sixty*—— your petioner, then *C. D.*, was lawfully married to *A. B.*, at the Church of——— in the————

2. That after her said marriage, your petitioner cohabited with the said *A. B.* at and at———, and that your petitioner and her said husband have issue living of their said marriage, *three* children, to wit, &c., &c. (*)

3. That on divers occasions in or about the months of *August*, *September* and *October*, one thousand eight hundred and *sixty*———,the said *A. B.*, at———,aforesaid, committed adultery with *E. F.*, who was then living in the service of the said *A. B.*, and your petitioner at their said residence———aforesaid.

4. That on divers occasions in the months of *October*, *November* and *December* one thousand eight hundred and *sixty*———,the said *A. B.*, at———aforesaid, committed adultery with *G. H.*, who was then living in the service of the said *A. B.* and your petitioner at their said residence———aforesaid.

5. That no collusion or connivance exists between your petitioner and the said *A. B.* with respect to the subject of the present suit,

Your petitioner, therefore, prays that this (Hon'ble) Court will decree a judicial separation to your petitioner from her said husband by reason of his aforesaid adultery.

(Signed) *C. B.*†

From of Verification: *See No.* 1.

No. 6.—*Statement in answer to No.* 5.

In the (High) Court of———

B. against *B.*

The———day of——

The respondent, *A. B.*, by *W. Y.*, his attorney [*or* vakíl] saith :—

1. That he denies that he committed adultery with *E. F.*, as in the third paragraph of the petition alleged.

2. That the petitioner condoned the said adultery with *E. F.*, if any.

3. That he denies that he committed adultery with *G. H.*, as in the fourth paragraph of the petition alleged.

4. That the petitioner condoned the said adultery with *G. H.*, if any.

Wherefore this respondent prays that this (Hon'ble) Court will reject the prayer of the said petition.

(Signed) *A. B.*

(*) State the respective ages of the children.

(†) The petition must be signed by the petitioner.

No. 7.—Statement in reply to No. 6.

In the (High) Court of————————

B. against *B.*

The————————day of————

The petitioner, *C. B.*, by her attorney [*or* vakíl], says :—

1. That she denies that she condoned the said adultery, of the respondent with *E. F.*, as in the second paragraph of the statement in answer alleged.

2. That even if she had condoned the said adultery, the same has been revived by the subsequent adultery of the respondent with *G. H.* as set forth in the fourth paragraph of the petition.

(Signed) *C. B.*

No. 8.—PETITION *for judicial separation by reason of cruelty.*

(*See Section* 22.)

In the (High) Court of————————

To the Hon'ble Mr. Justice————————[*or* To the Judge of————]

The————————day of————————186—

The petition of *A. B.* (wife of *C. B.*) of————————

SHEWETH,

1. That on the————day of————one thousand eight hundred and———, your petitioner, then *A. D*, spinster, was lawfully married to *C. B.*, at————.

2. That from her said marriage, petitioner lived and cohabited with her said husband at————————until the——day of————one thousand eight hundred and————,when your petitioner separated from her said husband as hereinafter more particularly mentioned, and that your petitioner and her said husband have had no issue of their said marriage.

3. That from and shortly after your petitiener's said marriage, the said *C. B.* habitually conducted himself towards your petitioner with great harshness and cruelty, frequently abusing her in the coarsest and most insulting language, and beating her with his fists, with a cane, or with some other weapon.

4. That on an evening in or about the month of————one thousand eight hundred and————, the said *C. B.* in the highway and opposite to the house in which your petitioner and the said *C. B.* were then residing at————aforesaid, endeavoured to knock your petitioner down, and was only prevented from so doing by the interference of *F. D.*, your petitioner's brother.

5. That subsequently on the same evening, the said *C. B.*, in his said house at ———aforesaid, struck your petitioner with his clenched fist a violent blow on her face.

6. That on one Friday night in the month of———one thousand eight hundred and———, the said *C. B.*, in———, without provocation, threw a knife at your petitioner, thereby inflicting a severe wound on her right hand.

7. That on the afternoon of the————day of————one thousand eight hundred and———— ——— your petitioner, by reason of the great and continued cruelty practised towards her by her said husband, with assistance withdrew from the house of her said husband to the house of her father at———: that from and after the said——— day of————one thousand eight hundred and————, your petitioner hath lived separate and apart from her said husband, and hath never returned to his house or to cohabitation with him.

8. That there is no collusion or connivance between your petitioner and her said husband with respect to the subject of the present suit.

Your petitioner, therefore, prays that this (Hon'ble) Court will decree a judicial separation between your petitioner and the said *C. B.*, and also order the said *C. B.* to pay the costs of, and incident to, these proceedings.

(Signed) *A. B.*

Form of Verification: See No. 1.

No 9.—*Statement in answer to No.* 8.

In the High Court of———

The———day of———

Between *A B.*, petitioner, and
C. D., respondent.

C. B, the respondent, in answer to the petition filed in this cause by *W. J*, his attorney, [*or* vakil] saith that he denies that he has been guilty of cruelty towards the said *A. B.*, as alleged in the said petition.

(Signed) *C. B.*

No. 10.—PETITION *for reversal of decree of separation.*
(*See Section* 24.)

In the (High) Court of———
To the Hon'ble Mr. Justice———[or To the Judge of———]

The———day of———186

The petition of *A. B.*, of———

SHEWETH,

1. That your petitioner was on the———day of———lawfully married to———.

2 That on the———day of———, this (Hon'ble) Court at the petition of———, pronounced a decree affecting the petitioner to the effect following, to wit,—

[*Here set out the decree.*]

3. That such decree was obtained in the absence of your petitioner, who was then residing at

[*State facts tending to show that the petitioner did not know of the proceedings; and, further, that had he known he might have offered a sufficient defence*],

or

That there was reasonable ground for your petitioner leaving his said wife, for that his said wife———

[*Here state any legal grounds justifying the petitioner's separation from his wife*].

Your petitioner, therefore, prays that this (Hon'ble) Court will reverse the said decree.

(Signed) *A. B.*

Form of Verification: *See No.* 1.

No. 11.—PETITION *for protection-order.*
(*See Section* 27.)

In the (High) Court of———
To the Hon'ble Mr. Justice———[*or* To the Judge of———]

The———day of———186—.

The petition of *C, B.*, of———
the wife of *A. B.*

SHEWETH,

That on the———day of———she was lawfully married to *A. B.*, at———

That she lived and cohabited with the said *A. B.* for———years at———, and also at———.and hath had———children, issue of her said marriage, of whom———are now living with the applicant, and wholly dependent upon her earnings.

That on or about———, the said *A. B.*, without any reasonable cause, deserted the applicant, and hath ever since remained separate and apart from her.

That since the desertion of her said husband, the applicant hath maintained herself by her own industry [*or* on her own property, *as the case may be*], and hath thereby and otherwise acquired certain property consisting of [*here state generally the nature of the property*].

Wherefore she prays an order for the protection of her earnings and property acquired since the said day of———, from the said *A. B.*, and from all creditors and persons claiming under him.

(Signed) *C. B.*

No. 12.—PETITION *for alimony pending the suit.*

(*See Section* 39.)

In the (High) Court of———————— .

B. against *B.*

To the Hon'ble Mr. Justice———[*or* To the Judge of———————]

The————day of————186

The petition of *C. B.*, the lawful wife of *A. B.*

SHEWETH,

1. That the said *A. B.* has for some years carried on the business of———, at——— and from such business derives the nett annual income of from Rs. 4,000 to 5,000.

2. That the said *A. B.* is possessed of plate, furniture, linen and other effects at his said house———aforesaid, all of which he acquired in right of your petitioner as his wife, or purchased with money he acquired through her, of the value of Rs. 10,000.

3. That the said *A. B.* is entitled, under the will of his father, subject to the life interest of his mother therein, to property of the value of Rs. 5,000 or some other considerable amount (*).

Your petitioner, therefore, prays that this (Hon'ble) Court will decree such sum or sums of money by way of alimony, pending the suit, as to this (Hon'ble) Court may seem meet

(Signed) *C. B.*

Form of Verification : See No. 1.

No 13.—*Statement in answer to No.* 12.

In the (High) Court of————————

B. against *B.*

A. B. of———, the above-named respondent, in answer to the petition for alimony, pending the suit, of *C. B.*, says :—

1. In answer to the first paragraph of the said petitioner, I say that I have for the last *three* years carried on the business of————, at————and that, from such business, I have derived a nett annual income of Rs. 900, but less than Rs. 1,000.

2. In answer to the second paragraph of the said petition, I say that I am possessed of plate, furniture, linen, and other chattels and effects at my said house——aforesaid, of the value of Rs. 7,000, but as I verily believe of no larger value. And I say that a portion of the said plate, furniture, and other chattels and effects of the value of Rs. 1,500, belonged to my said wife before our marriage, but the remaining portion thereof I have since purchased with my own monies. And I say that, save as hereinbefore set forth, I am not possessed of the plate and other effects as alleged in the said paragraph in the said petition, and that I did not acquire the same as in the said petition also mentioned.

3. I admit that I am entitled under the will of my father, subject to the life-interest of my mother therein, to property of the value of Rs. 5,000, that is to say, I shall be entitled under my said father's will, upon the death of my mother, to a legacy of Rs. 7,000, out of which I shall have to pay to my father's executors the sum of Rs. 2,000, the amount of a debt owing by me to his estate, and upon which debt I am now paying interest at the rate of five per cent. per annum.

4. And, in further answer to the said petition, I say that I have no income whatever except that derived from my aforesaid business, that such income, since my said wife left me, which she did on the————day of————last, has been considerably diminished, and that such diminution is likely to continue. And I say that out of my said income, I have to pay the annual sum of Rs. 100 for such interest as aforesaid to my late father's executors, and also to support myself and my two eldest children.

5. And, in further answer to the said petition, I say that, when my wife left my dwelling-house on the———day of————last, she took with her, and has ever since withheld and still withholds from me, plate, watches and other effects in the second paragraph of this my answer mentioned, of the value of, as I verily believe, Rs. 800 at the least; and I also say that, within five days of her

(*) The petitioner should state her husband's income as accurately as possible.

departure from my house as aforesaid, my said wife received bills due to me from certain lodgers of mine, amounting in the aggregate to Rs.————, and that she has ever since withheld and still withholds from me the same sum.

(Signed) *A. B.*

No. 14.—UNDERTAKING *by minor's next friend to be answerable for respondent's costs.* (*See Section* 49).

In the (High) Court of————

I, the undersigned *A. B.*, of————, being the next friend of *C. D.*, who is a minor, and who is desirous of filing a petition in this Court, under the Indian Divorce Act, against *D. D.* of————, hereby undertake to be responsible for the costs of the said *D. D.* in such such suit, and that, if the said *C. D.* fail to pay to the said *D. D.* when and in such manner as the Court shall order all such costs of such suit as the Court shall direct him [*or* her] to pay to the said *D. D.*, I will forthwith pay the same to the proper officer of this Court.

Dated this———day of————187—.

(Signed) *A. B.*

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(Nothing hereinafter contained shall be deemed to have the force of law).
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ACT No. V. OF 1869.

An Act to consolidate and amend the Articles of War for the government of Her Majesty's Native Indian Forces.

Preamble.

Whereas it is expedient to consolidate and amend the Articles of War for the Government of the Native Officers, Soldiers, and other persons in Her Majesty's Indian Army; It is hereby enacted as follows:

PART I.—PRELIMINARY.

(a.)—*Short Title.*

This Act may be called "The Indian Articles of War."

(b.)—*Commencement of Act.*

This Act shall come into operation on the 1st day of June, 1869.

(c.)—*Repeal of Enactments.*

References to any Act hereby repealed, or any Act passed subsequently thereto shall be read as if made to this Act.

(d.)—*Application of Articles.*

The Articles contained in Part II of this Act shall apply to all

Commissioned Officers,
Sub-Assistant Surgeons,
Hospital Assistants,
Native Doctors,
Warrant Officers,
Non-Commissioned Officers,
Hopital Attendants of any class,
Trumpeters, Buglers, Drummers,
Musicians,
Soldiers,
Unattested Recruits,
Lascars, Mahouts, Drivers,
Farriers, Syces, Grass-cutters,
Artificers, Labourers,

Sutlers, Followers, whether public or private, and all other persons attached to or serving with any portion of the said Army:

Proviso.

Provided that nothing in the said Part (other than Article 123) shall render any British-born subject of Her Majesty, or any legitimate Christian lineal descendant of such subject, whether in the paternal or maternal line triable or punishable under the said Part, but all such persons belonging to Her Majesty's Indian Army shall be triable and punishable as if they belonged to Her Majesty's British Forces.

And that nothing in the said Part shall render any American or any Christian European not being British-born, or any Christian legitimate lineal descendant of such American or European, whether in the paternal or maternal line triable by a Court Martial composed of Native Commissioned Officers; but all such persons belonging to Her Majesty's Indian Army shall be triable by Courts Martial composed of European Officers only. Save as aforesaid, such persons shall be subject to this Act as if they were Natives of British India.

(e.)—*Interpretation Clause.*

In this Act, unless there be something repugnant in the subject or context,—

"Army" means Her Majesty's Indian Army, and "service" means service in such Army.

"Commissioned Officer" includes all Officers holding Commissions in the Native ranks of the Army, whether they be of purely Native or of a mixed European and Native extraction:

"European Officers" includes all European Officers holding Commissions in such Army or in Her Majesty's British Army:

"Commanding Officer" or "Officer Commanding" means the European Officer in actual command for the time being of any Force, Division, District, Regiment, Corps, Detachment, or Depôt, as the case may be.

"Judge Advocate" includes any European Officer duly authorized to officiate as Judge Advocate:

"Court Martial" means a Court Martial held under this Act, and in Articles 67, 68, 69, and 123 shall include a Court Martial held under the Act for punishing mutiny and desertion, and for the better payment of the Army and their quarters for the time being in force:

"Soldier" and "Soldiers" include Non-Commissioned Officers and all armed persons doing duty in the ranks of the Army.

"Attested" means attested under the Articles contained in Part II of this Act:

"Deserter" means a person subject to such Articles, who has deserted from the Army:

"Government" means, in the case of the Madras Army, the Governor of Fort Saint George in Council, in the case of the Bombay Army, the Governor of Bombay in Council, and in the case of any other part of Her Majesty's Indian Army, the Governor-General of India in Council;

And the expressions "assault," "criminal force," "dishonestly," "extortion," "fraudulently," "grievous hurt," "hurt," "theft," "voluntarily causes hurt," "voluntarily causes grievous hurt," "reason to believe," "wrongful gain" and "wrongful loss" shall be severally taken to have the meanings assigned to them respectively in the Indian Penal Code and quoted in Part I of the appendix to this Act.

(f.)—Saving of certain Regulations.

Nothing in this Act affects any regulations by which the respective officers and powers of Cantonment Magistrates, Commissariat Officers, Officers in charge of the Police in Cantonments, and Superintendents of Military Bazars are defined and controlled, or by which Pancheyets are constituted and guided.

PART II.—THE ARTICLES OF WAR.

TITLE I.—ENLISTMENT, DISMISSAL AND DISCHARGE.

CHAPTER I.—*Enlistment.*

Articles to be read to Recruits.

Article 1.—Every person prior to being enrolled in any Regiment or Corps shall have the 7th, 8th, 9th, 10th, 11th, 24th, 38th, and 53rd of these Articles read and explained to him.

Affirmation.

When reported fit for duty, such declaration or charge as may be usual shall be made to him, by the Officer Commanding in front of

the Regiment or Corps, or of such portion thereof as shall be present; and the person shall then make the following affirmation:—

"I——————, inhabitant of————, son of————,
"solemnly affirm in the presence of Almighty God that I will be faith-
"ful to Her Majesty the Queen, Her heirs and successors, and will go
"wherever I am ordered, by land or sea, and will obey all commands
"of the Officers set over me, even to the peril of my life.

Attestation.

Article 2.—All persons of the following classes hereafter enlisted or enrolled under these Articles, shall be attested according to the regulations of the Government to which they are respectively subject,—Sub-Assistant Surgeons, Hospital Assistants, Native Doctors, Warrant Officers of any Department, Trumpeters, Buglers, Drummers, Musicians, Soldiers, Lascars, Mahouts, Drivers, Farriers, Syces and Grass-cutters.

Articles 3, 4, 5, 7 to 71 (both inclusive), 90 to 94 (both inclusive), 130 to 139 (both inclusive), 154, 167 and 176, shall be read to every person enlisted or enrolled under these Articles at the time of his attestation.

CHAPTER II.—*Dismissal and Discharge.*

Dismissal of Commissioned Officers.

Article 3.—A Commissioned Officer shall be liable to dismissal from the service by the sentence of a General Court Martial, or by order of the Governor-General of India in Council, or of the Commander-in-Chief of the Presidency to which he belongs, or, if the Officer belongs to either of the Presidencies of Fort St. George or Bombay, of the Governor in Council of such Presidency.

Every Commissioned Officer dismissed under these Articles shall forfeit all claim to pension.

Dismissal of other Persons.

Article 4.—Any person subject to these Articles, other than a Commissioned Officer, shall be liable to dismissal from the service

by the sentence of any Court Martial empowered to try him,

or by order of the Governor-General of India in Council, or of the Commander-in-Chief of the Presidency to which he belongs,

or, if he belongs to either of the Presidencies of Fort St. George and Bombay, by order of the Governor in Council,

or, if he belongs to a Force not attached to any such Presidency, by order of the Officer Commanding such Force.

Every such person so dismissed shall forfeit all claim to pension.

Attested person dismissed and re-enlisting.

Article 5.—Every attested person of or below the rank of Non-Commissioned Officer who has been dismissed or discharged from the service, and who subsequently re-enters the service without at the time stating the fact of his dismissal or discharge, or showing his certificate of dismissal or discharge may be dismissed the service by the Officer Commanding the regiment or corps with which he is serving.

Certificate to person dismissed.

Article 6.—Every attested person who is dismissed or discharged from the service, shall be furnished by his Commanding Officer with a certificate, in the English language and in the mother-tongue of such person (when his mother-tongue is not English), setting forth

(*a*) the authority dismissing or discharging him,
(*b*) the cause of his dismissal or discharge, and
(*c*) the full period of his service in the army.

TITLE II.—MILITARY OFFENCES.

CHAPTER I.—*Crimes punishable with Death or Transportation.*

Mutiny and Sedition.

Article 7.—Any person subject to these Articles—

Who begins, excites, causes or joins in any mutiny or sedition in any regiment, corps, detachment, or guard;

or who, being present at any mutiny or sedition, does not use his utmost endeavour to suppress the same,

or who, knowing or having reason to believe in the existence of any mutiny, or of any intention to mutiny, or of any conspiracy against the State,

does not, without delay, give information thereof to his Commanding or other superior Officer;—or

Violence to superior.

Article 8.—Who uses or attempts to use criminal force to, or commits an assault on, his superior Officer, whether on or off duty, under any circumstances in which the superior Officer is distinguishable as such in any manner;—or

Disobedience.

Article 9.—Who disobeys the lawful command of his superior Officer;—or

Desertion.

Article 10.—Who deserts the service;—or

Re-enlistment without having been discharged.

Article 11.—Who, without having first obtained a regular discharge from the regiment or corps to which he belongs, enlists, or enrols himself in any other regiment or corps;—or

Sentry sleeping on or quitting post in time of war.

Article 12.—Who, being a sentry in time of war or alarm, or over any State-prisoner, treasure magazine, or dockyard, sleeps upon his post, or quits it without being regularly relieved, or without leave;—or

Sentry plundering.

Article 13.—Who, being a sentry, or on guard, plunders or wilfully destroys or injures any property placed under his charge, or under charge of his guard;—or

Abandoning garrison.

Article 14.—Who, shamefully abandons or delivers up any garrison, fortress, post or guard committed to his charge, or which it is his duty to defend ;—or

Betraying watch-word.

Article 15.—Who treacherously makes known the watch-word to any person not entitled to receive it according to the rules and discipline of war :—or

Corresponding with enemy.

Article 16.—Who directly or indirectly holds correspondence with or communicates intelligence to the enemy, or any person in arms against the State, or who, coming to the knowledge of any such correspondence or communication, omits to discover it immediately to his Commanding or other superior Officer ;—or

Assisting Enemy.

Article 17.—Who, directly or indirectly, assists or relieves with money, victuals or ammunition, or knowingly harbours or protects any enemy, or person in arms against the State ;—or

Releasing prisoners.

Article 18.—Who, without proper authority, releases any State-prisoner, enemy, or person taken in arms against the State, placed under his charge, or who negligently suffers any such prisoner, enemy or person to escape ;—or

Misbehaviour in presence of enemy.

Article 19.—Who, in presence of an enemy, or of any persons in arms against whom it is his duty to act, shamefully casts away his arms or ammunition, or intentionally uses words or any other means to induce any Officer or Soldier to abstain from acting against the enemy, or to discourage such Officer or Soldier from acting against the enemy, or who otherwise misbehaves ;—or

Seeking plunder during action.

Article 20.—Who, in time of action, without authority, leaves his Commanding Officer, or his post, or colours, or party to go in search of plunder ;—or

Quitting guard in time of war.

Article 21.—Who, in time of war, quits his guard, picquet, party or patrol, without being regularly relieved or without leave ;—or

Assaulting persons bringing provisions.

Article 22.—Who, in time of war, or during any military operation, uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to the camp or quarters of any of Her Majesty's forces,

or forces a safeguard, or, without authority, breaks into any house or other place for plunder, or plunders, injures or destroys any field, garden or other property of any kind ;—or

Causing false alarm in time of war.

Article 23.—Who, in time of war, or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports by words or by letters calculated to create alarm or despondency,

Punishment for the foregoing offences.

Article 24.—Shall, on conviction, suffer death, or transportation for life or for a term of not less than seven years,

or imprisonment (with or without hard labour, and with or without solitary confinement) for a term which may extend to fourteen years,

or such other punishment as a General Court Martial is, by these Articles, empowered to award.

Whenever any person is convicted under this section of an offence punishable with death, all his property, moveable and immoveable, shall be forfeited to Government.

CHAPTER II.—*Crimes punishable otherwise than by Death or Transportation.*

Unbecoming behaviour.

Article 25.—Any Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer,

who behaves in a manner unbecoming his position and character; —and

Intoxication on duty.

Article 26.—Any person subject to these Articles,

who is in a state of intoxication when on or for any duty, or on parade, or on the line of march;—or

Striking sentry.

Article 27.—Who strikes, or forces or attempts to force any sentry; —or

Harbouring deserter.

Article 28.—Who knowingly harbours any deserter; or who, knowing, or having reason to believe, that any other person has deserted, or that any deserter has been harboured by any other person, does not immediately give notice to his own or some other superior Officer, or use his utmost endeavours to cause such deserter, to be apprehended;—or

Enlisting deserter.

Article 29.—Who knowing, or having reason to believe, that a person is a deserter, enlists him;—or

Absence without leave.

Article 30.—Who absents himself without leave, or, without sufficient cause, overstays leave granted to him;—or

Failure to rejoin.

Article 31.—Who, being on leave of absence and having received information from proper authority that his regiment or corps has been ordered on service, fails, without sufficient cause, to rejoin without delay; —or

Failure to attend parade.

Article 32.—Who, without sufficient cause, fails to appear at the time fixed at the parade or place appointed for exercise or duty;—or

Quitting parade or division.

Article 33.—Who, when on parade, or on the line of march, without sufficient cause, or without leave from his superior Officer, quits the parade or line of march;—or

Quitting guard in time of peace.

Article 34.—Who, in time of peace, quits his guard, picquet, or patrol, without being regularly relieved, or without leave;—or

Refusing to receive or releasing prisoners.

Article 35.—Who, being in command of a guard, picquet, or patrol, refuses to receive any prisoner duly committed to his charge, or without proper authority releases any prisoner, or negligently suffers any prisoner to escape;—or

Leaving arrest.

Article 36.—Who, being under arrest, or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority;—or

Insubordination.

Article 37.—Who is grossly insubordinate or insolent to his superior Officer in the execution of his office;—or

Refusal to superintend military work.

Article 38.—Who refuses to superintend or assist in the making of any field-work, or other military work of any description, ordered to be made either in quarters or in the field;—or

Impeding Provost Marshal.

Article 39.—Who impedes a Provost Marshal or an Assistant Provost Marshal, or any person lawfully exercising authority, or refuses when called upon to assist such person when requiring aid in the execution of his duty;—or

Striking subordinates.

Article 40.—Who strikes or otherwise ill-treats any soldier or other person attested under these Articles being his subordinate in rank or position;—or

Extortion.

Article 41.—Who commits extortion; or, without proper authority, exacts from any person carriage, porterage, or provisions;—or

House-breaking or plundering in time of peace.

Article 42.—Who, in time of peace, commits house-breaking for the purpose of plundering; or plunders, destroys, or damages any field, garden, or other property;—or

Neglecting to compensate person injured by subordinate.

Article 43.—Who, being in command at any post, or on the march, and receiving a complaint that any one under his command has beaten, or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person, or to report the case to the proper authority;—or

Defiling places of worship.

Article 44.—Who, by defiling any place of worship, or otherwise, intentionally insults the religion or wounds the religious feelings of any person;—or

Taking bribes.

Article 45.—Who, directly or indirectly, requires, accepts, or obtains, or agrees to accept, or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enlistment or enrolment of any person, or leave of absence, promotion, or any other advantage or indulgence for any person in the service;—or

Causing false alarm in time of peace.

Article 46.—Who, in time of peace, by any means whatever, intentionally occasions a false alarm in camp, garrison, or contonment;—or

Making away with regimental necessaries.

Article 47.—Who, designedly or through neglect, kills, injures or loses his horse, or who dishonestly or fraudulently removes, conceals or delivers to any person, or who designedly or through neglect injures or loses his arms, clothes, tools, musical or surgical instruments, equipments, ammunition, accoutrements, or regimental necessaries, or any such articles entrusted to him, or belonging to any other person,

or who sells, pawns, destroys or defaces any medal or decoration granted to him by order of Her Majesty, or of the East India Company, or of the Governor-General of India in Council for service in the field, or for general good conduct:—or

Attempting suicide.

Article 48.—Who attempts to commit suicide, and does any act towards the commission of such offence;—and

Appearing armed in camp.

Article 49.—Any person subject to these Articles below the rank of Warrant Officer—

Who, when off duty appears, without proper authority, in or about camp or cantonments, or in or about, or when going to, or returning from, any town or bazar, carrying a sword, bludgeon, or other offensive weapon;—or

Sentry sleeping on post in time of peace.

Article. 50.—Who, being a sentry, in time of peace, sleeps upon his post, or leaves it before being regularly relieved, or without leave;—or

Absence from camp.

Article 51.—Who, without proper authority, is found two miles or upwards from camp;—or

Absence from cantonment after tattoo.

Article 52.—Who, without proper authority, is absent from his cantonment or lines after tattoo, or from camp after retreat-beating,

Punishment for offences mentioned in Articles 25—52.

Article 53.—Shall, on conviction by any Court Martial competent to try him, be sentenced to such punishment, other than death or transportation, as such Court is, by these Articles, empowered to award.

CHAPTER III.—*Crimes to be punished with dismissal from the service.*

Embezzlement.

Article 54.—Any person subject to these Articles—

Who dishonestly misappropriates or converts to his own use any money, provisions, forage, arms, clothing, ammunition, tools, instruments, equipments or military stores of any kind, the property of Government, entrusted to his charge on the public account, or for any military purpose,

or who dishonestly uses or disposes of such property in violation of any direction of a proper authority,

or who dishonestly receives or retains any such property, knowing or having reason to believe the same to have been dishonestly misappropriated or converted;—or

Destruction of Government property.

Article 55.—Who wilfully destroys or injures any property of Government entrusted to him on the public account, or for any military purpose;—or

Giving false evidence.

Article 56.—Who, having been duly sworn or affirmed before any Court Martial or other Military Court competent to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true,

Punishment for offences mentioned in Articles 54, 55, 56.

Article 57.—Shall, if convicted by a General Court Martial, be sentenced to be dismissed the service and to forfeit any arrears of pay and allowances due to him at the time of dismissal: and shall be punishable also with imprisonment (with or without hard labour, and with or without solitary confinement) for a term which may extend to three years: and shall, if convicted by a District or Garrison Court Martial, be liable to any or all of the penalties which such Court may inflict for disgraceful conduct.

CHAPTER IV.—*Disgraceful Conduct.*

Malingering.

Article 58.—Any person subject to these Articles—

Who malingers, or feigns, or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity;—or

Wilfully causing hurt.

Article 59.—Who, with intent to render himself or any other person unfit for service, voluntarily causes hurt or voluntarily causes grievous hurt to himself or any other person;—or

Theft.

Article 60.—Who commits theft in respect of any property of Government, or of any Officer or Soldier, or of any other person in the service, or of any military mess or band, or of any person serving with or attached to the Army, or who dishonestly receives or retains any such property knowing or having reason to believe it to be stolen;—or

Embezzlement of Government property not entrusted on public account.

Article 61.—Who dishonestly misappropriates or converts to his own use any property of Government entrusted to him for any purpose not provided for in Articles 54 and 55,

or who dishonestly receives or retains any such property knowing or having reason to believe it to have been dishonestly misappropriated or converted;—or

Obtaining pension by false statement.

Article 62.—Who obtains or attempts to obtain for himself, or for any other person, any pension, allowance, or other advantage or privilege by a statement which is false, and which he knows or has reason to believe to be false, or does not know to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement;—or

Furnishing false returns.

Article 63.—Who knowingly furnishes a false return or report of the number or state of any men under his command or charge, or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge whether belonging to such men, or to Government, or to any person in or attached to the Army, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid;—or

Other fraudulent offences.

Article 64.—Who does any other thing with intent to defraud, or to cause wrongful gain to one person, or wrongful loss to another person;—or

Cruelty or Indecency.

Article 65.—Who commits any other offence of a cruel, indecent, or unnatural kind, or attempts to commit any such offence and does any act towards its commission—

Penalties for offences specified in Articles 58-65

Article 66.—May be tried for disgraceful conduct, and shall, on conviction by a General District or Garrison Court Martial, be liable to any or all of the penalties awardable by such Court for disgraceful conduct.

CHAPTER V.—*Offences against Courts Martial.*

Refusal to attend or be sworn.

Article 67.—Any person subject to these Articles who, when duly summoned to attend as a witness before a Court Martial, intentionally omits to attend, or refuses to be sworn or make affirmation, or to answer any question, or to produce or deliver up any book or document which he may have been duly warned and called upon to produce or deliver up, or prevaricates;—or

Contempts.

Article 68.—Who intentionally offers any insult or causes any interruption or disturbance to, or uses any menacing or disrespectful

word, sign or gesture, or is insubordinate or violent in the presence of a Court Martial while sitting,

Punishment for offences specified in Articles 67 *and* 68.

Article 69.—Shall, on conviction by the same or by any other Court Martial which is competent to try the offender, be liable to such punishments as the convicting Court is, by these Articles, empowered to award.

CHAPTER VI.—*Unspecified Offences.*

Article 70.—All offences not punishable with death, all neglects to obey any garrison or other orders, and all acts and omissions, of which any person subject to these Articles is accused, shall, though not specified in these Articles, if they be prejudicial to good order and military discipline, be taken cognizanace of and punished according to the nature and degree of the offence, act or omission by any Court Martial empowered to try the person guilty of such offence, act or omission.

Abetment.

Article 71.—Every person subject to these Articles who abets, within the meaning of the Indian Penal Code, Sections 107 and 108, any of the offences specified in Articles 7, 8, 10, 13, 14, 18 and 19, may be punished with the punishment hereinbefore provided for such offence.

Every such person who abets, within the meaning of the Indian Penal Code, Sections 107 and 108, any other offence punishable under this Act, shall be punished

with imprisonment of any description provided by this Act for the offence so abetted for a term which may extend to one-half of the longest term of such imprisonment,

or with one-half of any other penalty awardable by the Court by which he is convicted,

or, if the offence is punishable with death or transportation for life, with transportation for a term not less than seven years, or with imprisonment (with or without hard labour, and with or without solitary confinement) for a term which may extend to ten years.

The said Sections of the Indian Penal Code are set forth in Part II of the Appendix to this Act.

TITLE III.—JURISDICTION.

CHAPTER I.—*Courts Martial.*

Kinds of Courts Martial.

Article 72.—For the purposes of these Articles, there shall be eight kinds of Courts Martial, (that is to say) :—

(1.)—General Courts Martial.
(2.)—Detachment General Courts Martial.
(3.)—District Courts Martial.
(4.)—Garrison Courts Martial.
(5.)—Regimental Courts Martial.
(6.)—Regimental Detachment Courts Martial.
(7.)—Detachment Courts Martial, and
(8.)—Summary Courts Martial.

(1.)—*General Court Martial.*

Appointment of General Court Martial.

Article 73.—A General Court Martial may be appointed—

(*a.*)—By the Commander-in-Chief of a Presidency:

(*b.*)—By any Officer authorized to appoint General Courts Martial by warrant of the Commander-in-Chief of a Presidency:

(*c.*)—By any Officer in actual command of Native troops who is authorized to appoint General Courts Martial by order of the Governor-General of India in Council, the Governor of Fort St. George in Council, or the Governor of Bombay in Council.

(*d.*)—By any Officer Commanding Native troops not attached to the forces of a Presidency who is authorized to appoint General Courts Martial by warrant which the Governor-General of India in Council has empowered the Commander-in-Chief in India to issue.

Composition of such Court.

Article 74.—Except as hereinafter provided, every General Court Martial shall, if held in British India, consist of not less than nine Commissioned Officers, but may, if held out of British India, consist of seven Commissioned Officers, if a greater number cannot be conveniently assembled.

Composition of such Court appointed under Orders in Council.

Article 75.—A General Court Martial appointed under the authority of an Order in Council shall consist of not less than five Commissioned Officers, and shall, if so provided in the Order, be composed of either European or of Native Commissioned Officers at the discretion of the Officer appointing it.

Powers of such Court.

Article 76.—A General Court Martial shall have power to try all persons subject to these Articles accused of mutiny or of any other offence punishable under this Act, and to pass sentences of death,

Transportation for life or for any period not less than seven years,

Imprisonment (with or without hard labour, and with or without solitary confinement) for any term not exceeding fourteen years,

Dismissal from the service,

Suspension from rank, pay, and allowances for any stated period,

Degradation,

Loss of standing,

Reduction to the ranks,

Corporal punishment not exceeding fifty lashes,

Forfeiture of additional pay, good conduct pay, and claim to pension,

Forfeiture of arrears of pay and allowances,

Stoppages.

Whenever any person is convicted of any offence for which he shall be transported or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that all the rents and profits of his moveable and immoveable estate during the period of his transportation or imprisonment shall be forfeited to Government, subject to such provision for his family and dependents as the Government may think fit to allow during such period.

(2.)—*Detachment General Court Martial.*

Appointment of such Court Martial.

Article 77.—When any portion of Her Majesty's troops is serving in any place not in British India, and not within the dominions of the Princes and States of India in alliance with Her Majesty, wherein Her Majesty's forces are permanently stationed, a Detachment General Court Martial may be appointed—

(*a.*)—By the Commander-in-Chief of a Presidency,

(*b.*)—By any Officer authorized to appoint Detachment General Courts Martial by warrant of the Commander-in-Chief of a Presidency:

(*c.*)—By the Officer in actual command of such troops, upon complaint being made of an offence against the person or property of any resident of such place, committed by any person under such Officer's command and subject to these Articles.

Its Composition and Powers.

Article 78.—Such Court Martial shall consist of not less than three Commissioned Officers, and shall have the same powers as a General Court Martial.

(3.)—*District Court Martial, and*

(4.)—*Garrison Court Martial.*

Appointment of such Courts.

Article 79.—A District or Garrison Court Martial may be appointed—

(*a.*)—By the Commander-in-Chief of any Presidency:

(*b.*)—By any Officer authorized to appoint District or Garrison Courts Martial (as the case may be) by warrant of the Commander-in-Chief of any Presidency:

(*c.*)—By any Officer in actual command of Native troops authorized to appoint District or Garrison Courts Martial (as the case may be) by order of the Governor-General of India in Council, the Governor of Fort St. George in Council, or the Governor of Bombay in Council.

(*d.*)—By any Officer Commanding Native troops not attached to the forces of a Presidency authorized to appoint District or Garrison Courts Martial (as the case may be) by warrant which the Governor-General of India in Council has empowered the Commander-in-Chief in India to issue.

Composition of such Courts.

Article 80.—(*a.*) Except as hereinafter provided, a District or Garrison Court Martial shall consist of seven Commissioned Officers, unless that number cannot conveniently be assembled, in which case such Court may consist of not less than five such Officers.

(*b.*) A District Court Martial appointed under the authority of an Order in Council, may consist of any number of Commissioned Officers not less than three; and may, if so provided in the order, be composed either of European or of Native Commissioned Officers at the discretion of the Officer appointing it.

Officers composing such Courts.

Article 81.—A District or Garrison Court Martial may, when necessary, be composed wholly of Officers of the regiment or corps to which the accused belongs: Provided that on the trial of a Sub-Assistant

Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer, not more than two Officers of the same regiment, corps, detachment, depôt, or department as the accused shall sit upon any such Court.

Powers of such Courts.

Article 82.—A District or Garrison Court Martial shall have power to try all persons subject to these Articles, other than Commissioned Officers, for any offence other than mutiny made punishable by these Articles, and to pass sentences of—

Imprisonment (with or without hard labour, and with or without solitary confinement) for a term not exceeding one year,
Dismissal from the service,
Suspension from rank, pay, and allowances,
Degradation,
Loss of standing,
Reduction to the ranks,
Corporal punishment not exceeding fifty lashes,
Forfeiture of additional pay, good-conduct pay, and claim to pension,
Forfeiture of arrears of pay and allowances,
Stoppages.

(5.)—*Regimental Court Martial.*

Appointment of such Court.

Article 83.—A Regimental Court Martial may be appointed by the Officer commanding any regiment or corps.

Composition of such Court.

Article 84.—A Regimental Court Martial shall consist of not less than five Commissioned Officers, unless that number cannot conveniently be assembled, in which case such Court may consist of not less than three such Officers.

Powers of such Court.

Article 85.—A Regimental Court Martial shall have power to try—

(*a.*)—All persons subject to these Articles, other than Commissioned Officers, Sub-Assistant Surgeons, Hospital Assistants, Native Doctors, and Warrant Officers, for any offence other than mutiny, desertion, or disgraceful conduct, punishable under these Articles, when committed on the line of march, or on board any vessel:

(*b.*)—Any offence punishable under this Act, and not within the ordinary jurisdiction of a Regimental Court Martial, other than mutiny, desertion, and disgraceful conduct, when the Officer Commanding the Division or District directs it to be tried by a Regimental Court Martial; and

(*c.*)—Any offence punishable under these Articles, other than offences not within the ordinary jurisdiction of a Regimental Court Martial—

and to pass sentences of—

Dismissal,
Loss of standing,
Reduction to the ranks,
Imprisonment (with or without hard labour, and with or without solitary confinement) for a term not exceeding six months,
Corporal punishment not exceeding fifty lashes,

Forfeiture of arrears of pay and allowances,
Stoppages.

(6.)—*Regimental Detachment Court Martial, and*

(7.)—*Detachment Court Martial.*

Appointment of Regimental Detachment Court Martial.

Article 86.—A Regimental Detachment Court Martial may be appointed by the Officer Commanding a detachment of his own regiment or corps:

Appointment of Detachment Court Martial.

Article 87.—A Detachment Court Martial may be appointed—

(*a.*)—By the Officer Commanding any Station, Force, or Detachment of men of different regiments or corps,

(*b.*)—By the Officer in command of any detachment when any offence not within the ordinary jurisdiction of a Regimental Court Martial (other than mutiny, desertion, or disgraceful conduct) is committed on the line of march, or on board any vessel.

Composition of such Courts.

Article 88.—A Regimental Detachment Court Martial and a Detachment Court Martial shall consist of not less than five Commissioned Officers, unless that number cannot conveniently be assembled, in which case such Court may consist of not less than three Commissioned Officers.

Powers of such Courts.

Article 89.—A Regimental Detachment Court Martial and a Detachment Court Martial shall have the same powers as a Regimental Court Martial.

(8.)—*Summary Courts Martial.*

Article 90.—(*a.*) Subject to the provisions and restrictions contained in Articles 91, 92, 93, 94, 125, and 126, a Summary Court Martial may be held by the European Commissioned Officer who is in actual command, for the time being, of any regiment or corps,

or of any detachment consisting of, or equivalent in strength to, three troops or companies,

or of any European corps or detachment to which Native details subject to these Articles are attached,

or who is in charge of any arsenal, ordnance establishment, or camp equipage depôt.

(*b.*)—In detached situations, beyond sea, or out of British India, or on service in the field, or under any circumstances where, immediate example being necessary, a Detachment Court Martial cannot be assembled as provided in Article 87, and reference cannot be made to superior authority without detriment to the service, a Summary Court Martial may be held by the European Commissioned Officer commanding a detachment of any strength:

Provided that if the Officer is of less than five years' standing, he shall not carry into effect any sentence by such Court Martial, until it has received the approval of the nearest superior Military Officer holding a command of not less than a regiment.

Constitution of such Courts.

Article 91.—At every Summary Court Martial, the Commanding Officer holding it shall alone constitute the Court.

Persons triable by such Court.

Article 92.—No Commanding Officer shall have power to try by a Summary Court Martial any Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer; or any person who is not liable to trial by Courts composed of Native Commissioned Officers; but all other persons subject to these Articles shall be liable to trial and punishment by a Summary Court Martial:

Provided that no person shall be so tried unless he is under the command of the Officer holding the trial.

Offences triable by such Court.

Article 93.—Any offence against these Articles, except mutiny, may be tried and punished by Summary Court Martial:

Provided that, when there is no emergent reason for immediate action, and reference can, without detriment to discipline, be made to superior military authority, a Commanding Officer shall not try by Summary Court Martial, without such reference, any of the following offences:—

Offences under Articles 8 to 23, both inclusive, ordinarily punishable by General Court Martial only:

Disgraceful offences under Articles 54, 55, 56, 60, 61, and 64; and

Offences against such Commanding Officer.

Its Powers.

Article 94.—A Summary Court Martial held by any Officer Commanding a regiment or corps may award any sentence not exceeding that awardable by a District Court Martial.

A Summary Court Martial held by any Commanding Officer other than the Officer Commanding a regiment or corps, may award any sentence not exceeding that awardable by a Regimental or Detachment Court Martial.

Trial of grave offences by inferior Courts.

Article 95.—Save, as provided by Article 85, Clauses (*a*) and (*b*) and Article 89, no Commanding Officer shall try by a Regimental or Detachment Court Martial offences which are by these Articles declared to be punishable by a General, District or Garrison Court Martial only. But, as it may be expedient that some such offences should be tried by inferior Courts Martial, the Commanding Officer of any Regiment, Corps or Detachment shall, in every such instance, submit the case for the orders of the Officer Commanding the Division or District in which he is serving, and the Officer Commanding such Division or District, whether on or without such application, may direct trial by such kind of Court Martial as he thinks fit:

Provided that mutiny shall in no case be tried save by a General Court Martial, and that desertion and disgraceful conduct shall in no case be tried by any Court Martial inferior to a District or Garrison Court Martial.

The permission to try grave offences by District or Garrison, Regimental or Detachment Courts Martial, shall be entered upon the proceedings of such Court, and in the monthly return of trials furnished to Army Head-Quarters.

Courts composed of European Officers.

Article 96.—The Governor-General of India, or the Governor of any Presidency, may, by an order in Council, direct that any Court Martial appointed under these Articles, shall be composed of European instead of native Commissioned Officers, or authorize any General or other Officer to appoint Courts Martial so composed at his discretion.

Any such Court Martial shall in such case be constituted accordingly, but shall in all other respects be governed by these Articles.

Claim to be tried by European Officers.

Article 97.—With the exception of cases of trial by Courts Martial appointed under Orders in Council, every person subject to these Articles, who is under orders for trial by Court Martial, may claim to be tried by European Officers.

When any such claim is made, the Court, whether a General, District, Garrison, Regimental or Detachment Court Martial, shall be composed of European instead of Native Commissioned Officers; but shall in all other respects be governed by these Articles.

CHAPTER II.—*Procedure.*

Limitation of trials.

Article 98.—No person subject to these Articles shall be tried or punished by a Court Martial for any military offence after the expiration of three years from the date of such offence, unless the offender, by reason of absence or of some other manifest impediment, could not be arrested or confined and brought to trial within that period; in which case he shall be liable to be tried at any time not exceeding two years after such impediment shall have ceased.

Place of trial.

Article 99.—Any person subject to these Articles who commits any offence against them, may be tried and punished for such offence in any place whatever in the same manner as if the offence had been committed in such place.

Arrest or confinement of accused.

Article 100.—Whenever any person subject to these Articles is accused of any military offence which his Commanding or other superior Officer considers should be tried by Court Martial, such Officer shall order the accused, if not below the rank of Non-Commissioned Officer to be placed in arrest, or if below such rank, to be put in confinement, until he can be tried by a Court Martial, or discharged by proper authority.

No such person shall be detained in arrest or confinement longer than is necessary for the purposes of justice.

Judge Advocate.

Article 101.—It shall not be necessary to appoint a Judge Advocate to any General Court Martial appointed under the authority of an Order in Council. But every other General Court Martial shall be attended by a Judge Advocate, who shall conduct the proceedings; and every District or Garrison, Regimental or Detachment Court Martial, composed of Native Commissioned Officers, shall be attended by an European Superintending Officer of not less than four years' service, who shall conduct the proceedings.

Interpreter.

Article 102.—An Interpreter shall be appointed to every Court Martial, and shall, when the Court is composed of Native Officers, form part of such Court.

If no duly qualified Interpreter is available at the station or place where the Court Martial sits, the Officer appointing the Court, or the Officer Commanding in the Division, District, or place within or at which the trial is to be held, shall appoint any competent person to perform the duty of Interpreter.

When no other qualified or competent person is available, the Superintending Officer, or in the case of an European Court, the President, shall perform the duty of Interpreter.

No Interpreter shall, as such, have a vote upon any matter.

President.

Article 103.—At every Court Martial, whether composed of European or Native Commissioned Officers, the senior Officer shall sit as President, without special appointment as such.

In case of the death or unavoidable absence of the President, the next senior member shall take the place of President, without special appointment as such, and the trial shall proceed if the Court be still composed of the smallest number of members of which it is required by these Aticles to consist.

Conduct of Proceedings.

Article 104.—In the case of any General Court Martial appointed under an Order in Council, or of any other Court Martial composed of European Commissioned Officers under Article 96 or 97, the President shall conduct the proceedings.

Precedence of Native Officers.

Article 105.—Risáldár Majors and Súbahdár Majors shall take precedence according to the dates of their commissions, and above all Súbahdárs or Risáldárs.

Sirdár Bahádurs and Bahádurs shall take rank only according to their respective commissions of Risáldár Major, Súbahdár Major, Risáldár, Risáldár Súbahdár, or Jemadár.

Risáldárs shall take rank with Súbahdárs, according to the dates of their commissions as Risáldárs, or if they have not been Risáldárs then according to the dates of their commissions as Risáldárs.

Time of Trial, Adjournment and Re-assembly.

Article 106.—Trials by Courts Martial may be carried on at any time without restriction.

The date and hour of the Court's original assembly shall be fixed by, or under the orders of the convening Officer; but the adjournment and re-assembly of a Court Martial shall be determined by the Court itself.

Challenges.

Article 107.—At all trials by Courts Martial, other than Courts Martial appointed under an order in Council or Summary Courts Martial, as soon as the Court is assembled, the names of the President and Members shall be read over to the prisoner, who shall thereupon be asked by the Officer conducting the proceedings, whether he objects to being tried by any Officer sitting on the Court.

If the prisoner objects to any such Officer, his objection, and also the reply thereto of the Officer objected to, shall be heard and recorded, and the remaining Officers of the Court shall, in the absence of the challenged Officer, decide on the objection.

When no challenge is made, or when challenge has been made and disallowed, or the place of every Officer successfully challenged has been filled by another Officer to whom no objection is made or admitted, the Court shall proceed as hereinafter provided.

Interpreter's oath.

Article 108.—The Officer conducting the proceedings shall then administer to the Interpreter, or, when necessary, shall himself make as Interpreter, an affirmation or oath as follows:—

"I, ———— solemnly affirm, in the presence of Almighty God, "that I will faithfully interpret and translate the proceedings of this "Court; and that I will not divulge the sentence until it shall have "been published by authority; and, further, that I will not disclose or "discover the vote or opinion of any particular member of the Court "unless required to give evidence thereof by a Court of Justice or "Court Martial, in due course of law."

When oath is made instead of affirmation, the oath shall commence—

"I,————do swear that I will faithfully interpret," &c., and shall be in all other respects in the above form, and shall end with the words "So help me God."

Oaths of President and Members.

Article 109.—The Interpreter, or the Officer conducting the proceedings, shall then administer to the President and each of the Members of the Court Martial an affirmation or oath in such of the following forms as shall be appropriate:—

For European Officers.

"I,————solemnly affirm, in the presence of Almighty God, "that I will duly administer justice, according to the Indian Articles of "War, without partiality, favour or affection; and if any doubt shall "arise, then, according to my conscience, the best of my understanding, "and the custom of war in the like cases; and that I will not divulge "the sentence of the Court until it shall be published by authority; and, "further, that I will not disclose or discover the vote or opinion of any "particular member of the Court, unless required to give evidence "thereof by a Court of Justice or a Court Martial, in due course of "law."

When oath is made instead of affirmation, the oath shall commence—

"I,————do swear that I will duly administer justice," &c., and shall be in all other respects in the above form, and shall end with the words "So help me God."

For Native Officers of the Mussulman or Hindú religion, or of any other religion for which it may be appropriate.

"I,————solemnly affirm, in the presence of Almighty God, that "I will duly administer justice, according to the Indian Articles of War, "without partiality, favour or affection; and if any doubt shall arise, "then, according to my conscience, the best of my understanding, and "the custom of war in the like cases; and that I will not divulge the "sentence of the Court until it shall be published by authority; and, "further, that I will not disclose or discover the vote or opinion of any "particular member of the Court, unless required to give evidence "thereof by a Court of Justice or a Court Martial, in due course of "law."

Judge Advocate's oaths.

Article 110.—The Interpreter, or any other European Officer of the Court, shall then administer to the Judge Advocate, or Superintending Officer, the following affirmation or the following oath:

"I,————————solemnly affirm, in the presence of Almighty "God, that I will not, upon any account whatsoever, disclose or discover "the vote or opinion of any particular member of the Court Martial, "unless required to give evidence thereof as a witness by a Court of "Justice or a Court Martial, in due course of law; and that I will not, "unless it be necessary for the due discharge of my official duties, dis-"close the sentence of the Court until it shall be published by authority."

When oath is made instead of affirmation, the oath shall commence—

"I,————————do swear that I will not, upon any account whatsoever, disclose," &c., and shall be in all other respects in the above form, and shall end with the words "So help me God."

Oaths of Witnesses.

Article 111.—Every person giving evidence at a Court Martial shall be examined on oath, or on affirmation, where affirmation is appropriate and admissible, and shall be duly sworn or affirmed in such of the following forms as may be appropriate:—

For Europeans and persons professing the Christian religion.

"I,————————do swear that what I shall state shall be the "truth, the whole truth, and nothing but the truth. So help me God"—

or,

"I,————————solemnly affirm, in the presence of Almighty "God, that what I shall state shall be the truth, the whole truth, and "nothing but the truth."

For Mussulman, Hindú, or other Native Witnesses.

"I,————————solemnly affirm, in the presence of Almighty "God, that what I shall state shall be the truth, the whole truth, and "nothing but the truth."

Oaths to be binding on conscience.

Article 112.—If none of the forms of oath or affirmation prescribed in Articles 108 to 111, both inclusive, are appropriate to any officer of a Court Martial or any witness, such officer or witness shall make oath or affirmation to the purport hereinbefore prescribed, in such form as the Court ascertains to be according to his religion or otherwise binding on his conscience.

Re-swearing in case of several trials.

Article 113.—When more trials than one are held by the same Court Martial, every officer of the Court and every witness before the Court, shall make a fresh oath or affirmation, as hereinbefore prescribed, notwithstanding any previous oath or affirmation.

Presumptive evidence of desertion.

Article 114.—If at any trial for desertion, it is proved that the person tried has been absent without authority for the space of two months, such proof shall be deemed sufficient presumptive evidence of desertion; and the Court may thereupon convict him of desertion, unless he proves that his absence was not wilful, or otherwise rebuts the presumption of desertion arising from the proof of his unauthorized absence.

Reference by prisoner to Government Officer.

Article 115.—If at any trial for desertion, absence without leave, overstaying leave, or not rejoining when warned for service, the person tried states, in his defence, any sufficient or reasonable excuse for his unauthorized absence, and refers in support thereof to any Officer in the Civil or Military service of Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the Court shall address such officer, and adjourn until his reply is received.

The written reply of any officer so referred to shall, if signed by him, be received in evidence, and have the same effect as if made on oath or affirmation before the Court.

If the Court is dissolved before the receipt of such reply, or if the Court omits to comply with the provisions of this Article, the convening officer may, at his discretion, annul the proceedings and order a fresh trial by the same or another Court Martial.

Trial for desertion.

Article 116.—On any trial for desertion the accused may be found guilty either of desertion or of absence without leave.

Evidence of previous convictions and general character.

Article 117.—When any person subject to these Articles has been convicted by a Court Martial of any military offence, such Court Martial shall enquire into, and receive and record evidence of any previous convictions of such person, either by a Court Martial, or by a Court of Justice; and shall further, in the case of any person below the rank of a Warrant Officer, enquire into and record the general character of such person.

Evidence received under this Article may be either oral, or in the hsape of entries in, or certified extracts from, the Court Martial Books;

and it shall not be necessary to prove the signature to such certified extract, nor shall it be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

Voting of Members.

Article 118.—The members of a Court Martial shall preserve order; and in giving their votes upon any matter, shall begin with the Junior in rank.

Except where otherwise specially provided, every decision shall be passed by a majority of votes; and where there is an equality of votes, as to either finding or sentence, the decision shall be in favour of the person tried.

In matters other than the finding or sentence, the President shall have a casting vote.

Majority requisite to sentence of death.

Article 119.—No sentence of death shall be passed by any General Court Martial, other than a General Court Martial held under an Order in Council, unless such sentence is concurred in by at least two-thirds of the Officers composing the Court, or by five out of seven, or four out of five Officers when the Court consists of either of those numbers.

A General Court Martial held under an Order in Council may, by the votes of a majority of such Court, pass a sentence of death.

Revision of finding or sentence.

Article 120.—The finding or sentence of any Court Martial may, be revised by order of the Officer authorized to dispose of the proceedings.

But no finding or sentence of a Court Martial shall be revised more than once; nor shall any evidence, save evidence as to previous convictions or general character, be received on a revision.

The Court, on revison, shall consist of the same, and the same number of Officers as were present when the original decision was passed, unless any such Officer or Officers shall be unavoidably absent.

In case of such unavoidable absence, the cause thereof shall be duly certified in the proceedings, and the Court shall proceed with the revision, provided it still consists of the smallest number of Officers of which such Court is by these Articles required to consist.

Procedure to be generally followed.

Article 121.—The procedure laid down in the Articles 106 to 119 (both inclusive) shall be adopted at all trials by Courts Martial save when otherwise specially ordered or provided.

Summoning witnesses.

Article 122.—The Judge Advocate, in the case of a General Court Martial, and the Officer ordering the trial in the case of any other Court Martial, may, by summons under his hand, require the attendance before the Court, at a time and place to be mentioned in the summons, of any person, either to give evidence or to produce documents.

In the case of a witness amenable to military authority, the summons shall be sent to the Officer in actual command of the corps to which he belongs, and such Officer shall serve it upon him accordingly.

In the case of any other witness, the summons shall be sent to the Magistrate within whose jurisdiction he may be, or resides, and such Magistrate shall give effect to the summons as if the witness were required in the Court of such Magistrate.

When a witness is required to produce any particular document in his possession or power, the summons shall describe it with convenient certainty.

Contempts of Court.

Article 123.—Any witness duly summoned, or any other person who commits any contempt of Court in the presence of a Court Martial, or who commits any of the offences described in Article 56, 67, or 68, shall, if subject to these Articles, be proceeded against as they direct; and shall, if not so subject, be delivered over to a Magistrate, who shall proceed against the offender in the same manner as if the offence had been committed before or towards a Court of Criminal Justice.

Privilege of witnesses.

Article 124.—Every witness, while proceeding to, attending on, or returning from, any Court Martial before which he has been summoned, shall be privileged from arrest in any civil suit or proceeding; and if arrested in any such suit or proceeding, may be discharged by order of such Court Martial.

Summary Courts Martial.

Persons to attend Summary Court Martial.

Article 125.—Every Summary Court Martial shall be attended by two Commissioned Officers, European or Native, exclusive of the Commanding Officer holding the trial.

An Interpreter shall, in every case, attend at a Summary Court Martial; but when no other competent Interpreter is available, the Officer holding the trial, or one of the Officers in attendance thereat, may perform the duty of Interpreter.

No Interpreter shall, as such, have a vote upon any matter.

Proceedings of such Courts.

Article 126.—The proceedings of every Summary Court Martial shall be conducted in presence of all the Officers specified in Article 125, and shall be recorded in the English language in the manner usual at other Courts Martial.

Oaths of Interpreter and Officer holding trial.

Article 127.—The Interpreter at a Summary Court Martial shall first make oath or affirmation, as provided by Article 108, down to the words "published by authority;" and the Commanding Officer holding the trial shall then make oath or affirmation, as provided in Article 109, down to the words "custom of war in the like cases."

The Officers in attendance shall not as such be sworn or affirmed.

Evidence.

Article 128.—All evidence at a Summary Court Martial shall be taken on oath or affirmation, as provided by Article 111.

Any previous convictions on record against the offender, and his general character, shall be recorded by the Commanding Officer as of his own knowledge, or proved as provided by Article 117.

Signature and transmission of proceedings.

Article 129.—The proceedings in every case in which a Regimental Court Martial or a Detachment Court Martial tries an offence not within the ordinary jurisdiction of a Regimental Court Martial, committed on the line of march or on board a vessel, shall be sent for the information of the Commander-in-Chief of the Presidency to which the Regiment or Detachment belongs, and of the Presidency within which they may be, or to which they are proceeding.

The proceedings of every Summary Court Martial shall, when closed, be signed by the Commanding Officer and the Officers attending the trial, and shall, without delay, be forwarded to the Officer Commanding the Division or District within which the trial was held, and such Officer, or the Commander-in-Chief in India, or of the Presidency in which the trial was held, is hereby authorized to set aside the trial for reasons based on the merits of the case, but not on any merely technical grounds.

When a Summary Court Martial is held in a force not attached to any Presidency, the Officer Commanding such force may exercise the powers given in this Article in regard to setting aside trials.

The proceedings of every other Court Martial shall, when closed, be signed by the members, and shall, without delay, be forwarded or delivered to the Officer under whose orders the trial has been held.

CHAPTER III.—*Sentences.*

Of General Courts Martial.

Article 130.—(*a.*) Any General Court Martial may, for any offence falling under Articles 7 to 23, both inclusive, and for such offences only, sentence any person subject to its jurisdiction to death, or to transportation for life, or for any period not less than seven years, or to imprisonment (with or without hard labour, and with or without solitary confinement) for any period not exceeding fourteen years.

(*b.*)—Any General Court Martial may, for any offence falling under Article 54, 55, or 56 of these Articles, sentence any person as aforesaid to the penalties attached to such offences in Article 57, and may, for any other disgraceful conduct, award the penalties attached to that offence in Articles 136, 137 and 138.

(*c.*)—Any General Court Martial may, in any case where no special punishments are prescribed, or, in addition to any special punishment, where so authorized, sentence any person amenable thereto to any punishment specified in Articles 131, 132, 133, 135, 137, and 138.

(*d.*)—No Court Martial, other than a General Court Martial, shall have power to award a sentence of death, transportation, or imprisonment exceeding one year.

Any General Court Martial may sentence any Commissioned Officer to be dismissed the service, or to be suspended from rank, pay and allowances for any stated period; or to be placed one or more steps lower in the list of his rank.

No Court Martial, other than a General Court Martial, shall have power to try or punish a Commissioned Officer.

Of General, District, or Garrison Courts Martial.

Article 131.—Any General, District or Garrison Court Martial may sentence a Sub-Assistant Surgeon, Hospital Assistant, Native Doctor. or Warrant Officer to be dismissed the service; or to be suspended from rank, pay and allowances for any stated period; or to be reduced to a lower grade or class in his department, or to be placed one or more steps lower in the list of his rank.

No Court Martial inferior to a District or Garrison Court Martial shall have power to try or punish any Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer.

Reduction, Dismissal, Corporal punishment and Imprisonment.

Article 132.—Any Court Martial may sentence a Non-Commissioned Officer to be reduced to the ranks; or to be placed one or more steps lower in the list of his rank;

Or may sentence any person subject to these Articles below the rank of Warrant Officer, to be dismissed the service; or to suffer corporal punishment not exceeding fifty lashes; or to imprisonment with or without hard labour, and with or without solitary confinement, for such periods as are hereinafter prescribed.

Limit of Imprisonment.

Article 133.—Except in the cases provided for in Articles 24 and 57, the limit of imprisonment, whether with or without hard labour and solitary confinement, awardable by Courts Martial under these Articles, shall be for General Courts Martial two years; for District or Garrison Courts Martial one year; and for Regimental or Detachment Courts Martial six months.

Solitary Confinement.

Article 134.—No person shall, under any such sentence, or under one or more sentences, be kept in solitary confinement more than eighty-four days in one year, or more than fourteen days at one time, and there shall be, between the periods of solitary confinement, intervals of ordinary imprisonment at least equal to the period of solitary confinement.

Reduction to ranks.

Article 135.—No Non-Commissioned Officer shall be sentenced by any Court Martial to imprisonment or to corporal punishment, without being first sentenced to reduction to the ranks.

Forfeiture of pay and pension.

Article 136.—On a conviction of any disgraceful conduct, a General, District or Garrison Court Martial may, in addition to any other punishment which it is empowered to award, sentence the offender to forfeit all advantage as to additional pay, good-conduct pay and claim to pension on discharge, which might otherwise have accrued from the length or nature of the former service; or to forfeit all such advantage absolutely, whether it has accrued from former service or may accrue from future service.

Forfeiture of arrears of pay.

Article 137.—On any conviction of disgraceful conduct, if the offender be sentenced to dismissal from the service, or if his sentence involve dismissal under Article 155 or Article 157, he shall further be sentenced to forfeit any arrears of pay and allowances, or other public money, due to him at the time of his dismissal, or such portion thereof as may be required to make good any proved loss or damage arising out of his disgraceful conduct.

Any Court Martial may, in addition to dismissal, or to any punishment involving dismissal under Article 157, sentence any person whom it is authorized to try, to forfeit any arrears of pay and allowances, or other public money, due to him at the time of his dismissal, or such portion thereof as may be required to make good any proved loss or damage arising out of his misconduct.

Stoppages.

Article 138.—Every offender convicted of disgraceful conduct whose dismissal from the service is not so awarded or involved as aforesaid, shall, in addition to any other punishment, be sentenced by the Court to be put under stoppages, to the extent provided by Article 139, until the amount of any proved loss or damage arising out of such conduct be made good.

And any Court Martial, in addition to any punishment other than, or not involving, dismissal, may sentence any person as aforesaid to be put under stoppages, to the extent specified in Article 139, until any proved loss or damage arising out of his misconduct be made good.

Extent of Stoppages.

Article 139.—Stoppages under Article 138 shall not be awarded, whether under one or more than one sentence, to a greater extent than, in the case of an Officer, two-thirds, or in the case of any other person, one-half of his monthly pay and allowances; and shall not be so a warded as to extend beyond one year.

Any public money issued to the offender within the said period of one year, shall, for the purposes of this Article, be deemed to be pay and allowances.

Sentence of Transportation or Imprisonment on person already sentenced.

Article 140.—Whenever a sentence of transportation or imprisonment is passed by any Court Martial upon an offender already under sentence of transportation for a limited term, or of imprisonment, the Court may award transportation or imprisonment to commence on the expiration of such previous sentence; notwithstanding that the aggregate of any terms of imprisonment may thus exceed the limit of imprisonment which such Court is by these Articles empowered to award.

Form of sentence of death.

Article 141.—In awarding a sentence of death, a General Court Martial shall, at its discretion, direct that the offender shall "suffer death by being hanged by the neck until he be dead," or shall "suffer death by being shot to death."

CHAPTER IV.—CONFIRMATION AND COMMUTATION OF SENTENCES.

Sentences to be confirmed or otherwise disposed of.

Article 142.—Save in the case of a Summary Court Martial, no decision or sentence of any Court Martial shall be carried into effect until confirmed or otherwise disposed of by—

(*a.*)—In the case of any Court Martial for the trial of any person within his command—the Commander-in-Chief of a Presidency: or

(*b.*)—In the case of any Court Martial for the trial of any person under his command—any Officer authorized in this behalf by warrant of the Commander-in-Chief of any Presidency, but subject to any restrictions contained in the warrant: or

(*c.*)—In the case of any Court Martial for the trial of any person under his command—any Officer in actual command of troops who is authorized in this behalf by the Governor-General of India in Council, the Governor of Fort Saint George in Council, or the Governor of Bombay in Council:

(*d.*)—In the case of any Court Martial for the trial of any person under his command—any Officer Commanding Native troops not attached to the forces of a Presidency who is authorized in this behalf by warrant of the Commander-in-Chief in India:

(*e.*)—In the case of a Detachment General Court Martial held beyond the limits of British India, and not within the dominions of the Princes and States of India in alliance with Her Majesty—the Officer appointing such Court Martial, unless the sentence of such Court Martial exceeds that awardable by a District or Garrison Court Martial, in which case the Commander of Her Majesty's forces with which the offender is serving, shall alone have power to confirm, remit, commute or annul such sentence:

(*f.*)—In the case of a Regimental Court Martial for the trial of any person under his command—the Officer appointing such Court Martial:

(*g.*)—In the case of a Regimental or other Detachment Court Martial for the trial of any person under his command, where the detachment consists of, or is equal in strength to, three troops or companies—the Commanding Officer:

(*h.*)—But when any such Court Martial is held in a Detachment of less than, or not equal in strength to, three troops or companies, the sentence shall be submitted for confirmation to the Officer Commanding the prisoner's Regiment, or to the nearest superior Officer holding a command of not less than a Regiment, who is hereby empowered to dispose of such sentence in like manner as if the trial had been held by his own order:

Provided that in detached situations beyond sea, or out of British India, or on service in the field, or in cases where immediate example is necessary and reference cannot be made to such Regimental or other superior Commanding Officer without detriment to the service, the Officer Commanding any Detachment, whatever its strength, may dispose of and carry out the sentence of any Detachment Court Martial held by his order.

(*i.*)—Any Commander-in-Chief or Officer mentioned in Clauses (*a*), (*b*), (*c*), (*d*), (*e*), (*f*) and (*g*) of this Article may, subject to the provisions of these Articles, and to the restrictions (if any) in the warrant (if

any) by which he is authorized in this behalf, mitigate, remit, commute or annul any sentence to the execution of which his confirmation is necessary.

Sentence of death.

Article 143.—When a sentence of death has been passed by any General Court Martial, the Officer so authorized, in accordance with these Articles, may confirm such sentence and cause it to be carried into effect, or may, in lieu thereof, sentence the offender to transportation for life, or for any term not less than seven years, or to inprisonment (with or without hard labour, and with or without solitary confinement) for any term not exceeding fourteen years.

Sentence of penal servitude or transportation.

Article 144.—Notwithstanding anything hereinbefore contained, whenever any person, being an European or American or a legitimate lineal descendant of an European or American, is convicted of an offence punishable under these Articles with transportation, the Court shall sentence the offender to penal servitude instead of transportation, according to the provisions of Act XXIV. of 1855.

When a sentence of transportation has been awarded by any General Court Martial, the Officer authorized, in accordance with these Articles, may confirm the sentence and cause it to be carried into effect, or may, in lieu thereof, sentence the offender to imprisonment (with or without hard labour, and with or without solitary confinement) for any term not exceeding fourteen years, and not exceeding the term of transportation awarded by the Court.

Sentence of dismissal on Commissioned Officers, &c.

Article 145.—A sentence of dismssal from the service passed by any Court Martial under these Articles upon a Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer, may be commuted by the Officer duly authorized to confirm or otherwise dispose of such sentence, to suspension from rank, pay and allowances for any stated period.

Any sentence on Commissioned Officers, &c.

Article 146.—Except on foreign service, or when reference cannot, without detriment to discipline, be made to superior military authority, no decision or sentence passed upon any Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer, shall be carried into effect until confirmed or otherwise disposed of by the Commander-in-Chief of the Presidency to which the offender belongs, or, when the offender is serving in a Presidency, by the Commander-in-Chief of such Presidency, or when the offender belongs to a force not attached to any Presidency by the Officer Commanding the force.

Sentence af corporal punishment.

Article 147.—A sentence of corporal punishment passed by any Court Martial may be commuted, by the Officer authorized to confirm or otherwise dispose of such sentence, to dismissal from the service, or to imprisonment without hard labour, and with or without solitary confinement, for any period not exceeding one year, which might have been awarded by such Court Martial.

Sentence of imprisonment with hard labour.

Article 148.—A sentence of imprisonment with hard labour passed by any Court Martial may be commuted, by the Officer authorized to confirm or otherwise dispose of such sentence, to dismissal from the service, or to imprisonment without hard labour, and with or without solitary confinement, for the term mentioned in the sentence, or for any shorter term.

Sentence of reduction with corporal punishment or imprisonment.

Article 149.—The Officer duly authorized to confirm or otherwise dispose of the sentence of any Court Martial may, in the case of a Non-Commissioned Officer sentenced by any such Court, mitigate a sentence of reduction to the ranks followed by corporal punishment or imprisonment to reduction only,

Commutation of sentence of dismissal on Non-Commissioned Officers.

or may commute a sentence of dismissal from the service to reduction to the ranks.

CHAPTER V.—EXECUTION OF SENTENCE.

Transportation.

Article 150.—Whenever the sentence of a General Court Martial awarding transportation is duly confirmed, or whenever a sentence of death is duly commuted to transportation, the offender shall be delivered over with a warrant of commitment, containing an authenticated copy of the sentence or commuted sentence, to the Officer in charge of the nearest jail; and such Officer shall give effect to the sentence accordingly, under such order as he may receive from the local Government.

Imprisonment with hard labour.

Article 151.—Whenever the duly confirmed sentence of any Court Martial awards imprisonment with hard labour, or whenever the sentence of any Court Martial is duly commuted to such imprisonment, the offender shall be delivered over with a warrant of commitment, containing an authenticated copy of the said sentence or commuted sentence, to the Officer in charge of the nearest jail; and such Officer shall detain the offender, under the rules in force, in such jail, according to the exigency of the warrant, or until he is discharged by due course of law.

Place of imprisonment.

Article 152.—The Commander-in-Chief of a Presidency may, as occasion requires, direct that any person under his command and sentenced under these Articles to imprisonment, shall be confined in any jail or other fit place for confinement, situate within the local limits of such command, or may order his removal from any place of confinement under military control to any other such place, or to any jail or other fit place of confinement situate within such local limits.

The Officer Commanding any force not attached to any Presidency, shall have the like powers so far as regards persons under his command and jails or other places of confinement situate within the local limits of such command.

Transfer to military custody.

Article 153.—When any person subject to these Articles is confined in any jail or other place not subject to military control, under a sentence of transportation or imprisonment, whether passed by a Court Martial or by a Court of Criminal Justice, the Government of India, or the local Government of the Presidency or place wherein such person is confined, may order his transfer to military custody,

or may order his removal from one to any other such place of confinement within the territories of such Government.

The period during which such person is in custody during his removal shall be reckoned as part of his term of transportation or imprisonment.

Forfeiture of pay during imprisonment.

Article 154.—Any person subject to these Articles in receipt of public pay, who is imprisoned in any place under the sentence, or commuted sentence, of a Court Martial, or a Court of Criminal Justice, shall, during such imprisonment, if his sentence does not involve dismissal under Article 155 or Article 157, forfeit all pay and allowances, and be entitled to subsistence only, according to the rates prescribed in the regulations of the Government to which he is subject.

And any such person in confinement in any place whatsoever, whether as a punishment by his Commanding Officer, or under any charge of which he is subsequently convicted, shall, during such confinement, forfeit all pay and allowances, and be entitled to subsistence only, according to the regulations of the Government to which he is subject.

Striking Convict off strength of Regiment.

Article 155.—Every person sentenced by any Court Martial, or by any Court exercising jurisdiction in criminal cases, to transportation or to imprisonment with hard labour for any term exceeding three months, shall, in the case of a sentence by a Court Martial, from the date of confirmation of such sentence, and in the case of a sentence by a criminal Court, from the date of such sentence, be struck off the strength of the regiment, corps or department to which he belongs.

Non-re-admission of Convict.

Article 156.—No person who has undergone any such period of transportation or imprisonment with hard labour, shall be re-admitted to the service, or be entitled to any pension:

Provided that in the case of any illegal sentence duly annulled as aforesaid, or of a pardon under Article 160, such person may, by order of the Government when the offence is non-military, or by order of the Commander-in-Chief of the Presidency when the offence is military, be re-admitted to service, or pension, as the case may be.

Dismissal with ignominy.

Article 157.—Any person below the rank of Warrant Officer sentenced under these Articles to dismissal, or to imprisonment with hard labour, or to corporal punishment for disgraceful conduct, shall, on the confirmation of such sentence, be dismissed with ignominy from the service.

Publication of sentence for disgraceful conduct.

Article 158.—A copy of every confirmed sentence of dismissal, imprisonment with hard labour, or corporal punishment for disgraceful conduct, and of the orders passed thereupon, shall be sent by the Adjutant General of the Army to the Chief Civil or Political Officer of the District wherein the offender's place of residence is situated; and such Officer shall publish the sentence and orders at the said place in such manner as may there be usual.

Sentences of Summary Courts Martial.

Article 159.—Any sentence awarded by a Summary Court Martial may be carried into effect forthwith on the Commanding Officer's own authority, and all provisions contained in Articles 151, 152, 153, 154, 155, 156, 157, 158, 160, and 161 as to execution of sentences and disposal of prisoners, shall equally apply to persons sentenced by Summary Court Martial.

CHAPTER VI.—PARDONS AND REMISSIONS.

Pardon of person convicted of military offence.

Article 160.—The Governor-General of India in Council, as regards any person subject to these Articles who has been convicted by a Court Martial of a military offence, and the Governors of Fort St. George in Council and of Bombay in Council, and the Commander-in-Chief of any Presidency, as regards any such person within the territories subject to such Government, or under the command of such Commander-in-Chief, shall have power to pardon such person, and may, intead of granting a full pardon to any such person, remit wholly or in part any punishment awarded to him by a Court Martial,

and may order the restoration to such person of any service or other advantage forfeited under this sentence.

Release of prisoners.

Article 161.—Any Officer in charge of a jail, on receiving a notification under the hand of a Secretary to the Government of India, or to the Government of Fort St. George, or to the Government of Bombay, or under the hand of the Commander-in-Chief of any Presidency, or of the Officer Commanding any force not attached to a Presidency, or any Division or District, that the sentence under which any person subject to these Articles is imprisoned in such jail has been annulled or remitted, or that any such person has been pardoned under Article 160, shall, on the authority of such notification alone, immediately release the prisoner or return him to military custody.

CHAPTER VII.—*Regimental Courts of Enquiry.*

Article 162.—If any person subject to these Articles is, without due authority, absent from his duty for two months, a Regimental Court of Enquiry, composed of European or Native Commissioned Officers, or of both in conjunction, shall forthwith assemble, and having received proof on oath or affirmation of the unauthorized absence, shall declare the same, and the period thereof; and the Officer Commanding the Regiment or Corps shall record such declaration in the regimental books.

If the person absent does not afterwards surrender or is not apprehended, such record shall have the legal effect of a conviction of desertion.

If he surrenders or is apprehended, such record, or a copy thereof, purporting to bear the signature of the Officer having the custody of the regimental books, shall on the trial of such person for desertion, be presumptive evidence of the facts therein recorded; and on proof of the identity of the prisoner with the person therein mentioned, he may be found guilty of desertion.

Persons absent as Prisoners of War.

Article 163.—No person subject to these Articles shall be entitled to any pay or allowances or other public money, or to reckon service during any absence as a prisoner of war.

But when such person rejoins the service, enquiry shall be made by a Court Martial into the circumstances of his absence; and unless it is proved to the satisfaction of such Court that he was taken prisoner through his own wilful neglect of duty, or that he had served with or under, or aided the enemy, or that he had not, as soon as possible, returned to the service, he may be recommended by the Court to receive either the whole or any portion of the arrears due to him, and to reckon his service.

Such recommendation duly confirmed by the Commander-in-Chief of the Presidency, or by the Officer Commanding any force not attached to a Presidency, to which the said person belongs, shall entitle him to receive such arrears and reckon service accordingly.

TITLE IV.—POWERS OF OFFICERS INDEPENDENTLY OF TRIAL.

Reduction to ranks.

Article 164.—The Commander-in-Chief of a Presidency, and the Officer Commanding any force not attached to a Presidency, shall have, respectively, power to reduce to the ranks Non-Commissioned Officers under their respective command.

Minor Punishments.

Article 165.—The Commander-in-Chief in India shall, under the authority of the Governor-General in Council, prescribe the minor punishments to which persons subject to these Articles shall for light offences be liable, without the intervention of a Court Martial, and shall specify the Officer or Officers by whom, and the extent to which, such minor punishments may be awarded.

No such minor punishment shall be awarded by a Court Martial; and, unless otherwise specially provided by the said Commander-in-Chief, no Commissioned Officer, Sub-Assistant Surgeon, Hospital Assistant, Native Doctor, or Warrant Officer, shall be liable to any such minor punishment.

Good-conduct pay shall not necessarily be forfeited on the infliction of a minor punishment, but forfeiture thereof may be awarded as a substantive punishment, either by order of the Commanding Officer or by sentence of a Court Martial, as may from time to time be prescribed in the General Orders of the Commander-in-Chief in India or of the Commander-in-Chief of the Presidency, as the case may be.

Whenever a Soldier is convicted by a Court Martial; his good-conduct pay shall cease.

Forfeiture of good-conduct pay may be awarded in addition to any other minor punishment.

Offences of Native Followers.

Article 166.—For any offence in breach of good order, the Commanding Officer of any regiment, corps or detachment, whether European or Native, in camp, or at any frontier post at which troops are stationed, and to which this Article may be specially extended by the Governor-General of India in Council, the Governor of Fort St. George in Council, the Governor of Bombay in Council, or any other local Government, may sentence any Native follower of such regiment, corps or detachment, if above the degree of a menial servant, to pay a fine not exceeding 50 Rupees, or, in default of payment, or in lieu thereof, to imprisonment for any period not exceeding thirty days: or if the Native follower be not above the degree of a menial servant, to imprisonment not exceeding seven days, or to corporal punishment not exceeding twelve strokes of a rattan.

Imprisonment awarded under this Article may be carried out in a military guard, or in a jail, as ordered by the said Commanding Officer; and the Officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant under the hand of the said Commanding Officer, detain the offender according to the exigency of the warrant, or until he is discharged by due course of law.

Complaints against Officers.

Article 167.—Any person subject to these Articles, who deems himself wronged by any superior or other Officer, may, if not attached to a troop or company, complain to the Officer under whose command or orders he is serving; and may, if attached to a troop or company, complain to the Officer Commanding the same.

When the Officer complained against is the Officer to whom any other complaint should, under this Article, be preferred, the aggrieved person shall complain to such Officer's next superior Officer.

No such complaint shall be made to any Officer other than those indicated in the former part of this Article.

Every Officer receiving any such complaint shall examine into it, and, when necessary, refer it to superior authority.

Every such complaint shall be preferred through such channels as may be from time to time prescribed by proper authority; and any person preferring a frivolous or groundless complaint shall be liable to trial by any Court Martial competent to try him, and to such punishment other than dismissal, corporal punishment, or imprisonment with hard labour, as the Court is empowered by these Articles to award.

Provost Marshals.

Article 168.—For the prompt and instant repression of irregularities and offences committed in the field or on the line of march, Provost Marshals shall be appointed by the Commander-in-Chief of the Presidency, or the Officer Commanding the Forces in the field; and the powers and duties of such Provost Marshals shall be regulated according to the established custom of war and the rules of the service.

Their duties and powers.

Article 169.—The duties of a Provost Marshal so appointed are to take charge of prisoners confined for offences of a general description,

to preserve good order and discipline, and to prevent breaches of the same by persons belonging or attached to the Army.

The Provost Marshal may punish, corporally, then and there, any person amenable to these Articles below the rank of Warrant Officer, who, in his view or in the view of any of his assistants, commits any breach of good order and military discipline:

Provided that such punishment shall be limited to the necessity of the case, and shall accord with the orders which the Provost Marshal may from time to time receive from the Officer Commanding the troops:

Provided, also, that the orders of the said Commanding Officer shall in no case authorize such corporal punishment in excess of that awardable by sentence of a Court Martial.

If the actual commission of the offence is not witnessed by the Provost Marshal, or any of his assistants, but sufficent proof can be obtained of the offender's guilt, he shall report the case to the Commander of the troops, who shall deal with the case as he may deem most conducive to the maintenance of good order and military discipline.

TITLE V.—NON-MILITARY OFFENCES.

Offences committed within jurisdiction of Criminal Court.

Article 170.—Any person subject to these Articles, who, at any place in British India within the jurisdiction of any Court of Criminal Justice established by Her Majesty, or by the Government of India, or by the local Government, is accused of any offence against the Indian Penal Code, and not included in the foregoing Articles, shall be delivered over to the nearest Magistrate to be proceeded against according to law.

All persons in, or attached to, the Army, are hereby required, upon application duly made to them for that purpose, to assist the Officers of Justice in apprehending and securing any such accused person.

Any person in, or attached to, the Army, wilfully neglecting or refusing so to assist shall be punished with any punishment, other than death or transportation, awardable under these Articles.

Offences committed out of British India.

Article 171.—In any place out of British India, offences against the Indian Penal Code, and not included in the foregoing Articles, shall, when committed by any person amenable to these Articles, be cognizable by a General Court Martial to be convened by any Officer who is empowered by warrant, or Order in Council, or by Article 77, to appoint General Courts Martial.

General Court Martial for trial of such offences.

Article 172.—The provisions of these Articles as to the composition and procedure of General Courts Martial, shall, with the exception of those contained in Article 117, apply to General Courts Martial for the trial of non-military offences:

Provided that such General Courts Martial shall, in every case, be attended by a Judge Advocate.

Sentences of such Court.

Article 173.—A General Court Martial held for the trial of a non-military offence, shall, on the conviction of any offender, award punishment in accordance with the provisions of the Indian Penal Code.

Confirmation of sentences.

Article 174.—No decision or sentence passed by any such General Court Martial shall be carried into effect until confirmed or otherwise disposed of by the authority which, under these Articles, is empowered to confirm or otherwise dispose of the sentence of such General Court Martial; and no sentence of death shall be carried into effect until confirmed by the Commander-in-Chief of the Presidency to which the offender belongs, or, when the offender is beyond the limits of British India, until confirmed by the Officer Commanding Her Majesty's Forces with which the offender is serving, or when the offender does not belong to any Presidency, until confirmed by the Commander-in-Chief in India.

Commutation of sentences.

Prisoners.

Article 175.—All the provisions contained in Articles 143, 144, 148, 150, 151, 152, 153, 154, 155, 156, and 161, relating to the disposal of sentences and of sentenced prisoners, shall apply to persons sentenced by a General Court Martial for a non-military offence.

TITLE VI.—EFFECTS OF DECEASED MEN AND OF DESERTERS.

Article 176.—When any person subject to these Articles dies, or is killed in the field, the Officer Commanding the regiment, corps or detachment, or the Officer in charge of the department to which such person belonged, shall, if no representative in interest of such person be on the spot, secure his effects in camp or quarters, and cause an inventory thereof to be made, and a duplicate of such inventory to be lodged with the Officer Commanding, or in charge of, the regiment, corps, detachment or department to which the deceased belonged.

Sale of effects and discharge of debts.

Article 177.—If there be no representative on the spot, or readily accessible, such Officer shall, without any representation taken out, publicly sell such part of the effects of the deceased in camp or quarters as do not consist of money, and shall pay thereout the debts of the deceased in camp or quarters, the expense of his funeral ceremonies, and his regimental debts of every description; and shall pay the surplus (if any) to the representative in interest of the deceased.

Remittal of Surplus.

Article 178.—In the event of no claim for the surplus of the deceased person's estate being made and established within twelve months of his death, the amount in the hands of the Officer in charge of the estate shall be remitted to the Controller General of Accounts at Calcutta, or to the Accountant General to the Government of Fort St. George or of Bombay; or, if the deceased shall have belonged to a force not under any Presidency, to the Controller General of Accounts at Calcutta.

Sale of effects of Deserters.

Article 179.—The effects in camp or quarters of a deserter shall be publicly sold, and the proceeds, after payment thereout of all regimental or departmental claims, shall be remitted by the Officer Commanding, or

in charge of, the regiment, corps, detachment or department to which the deserter belongs, to the Controller General of Accounts at Calcutta, or to the Accountant General to the Government of Fort St. George or of Bombay.

Remittal of proceeds.

If the deserter belongs to a force not attached to any Presidency, then the said proceeds shall be remitted to the Controller General of Accounts at Calcutta.

PART III.—MISCELLANEOUS.

Prohibition of Second Trial.

(*a.*)—Persons subject to the Articles contained in Part II of this Act, who have been acquitted or convicted, either by a Court Martial or by a Court of Criminal Justice, of any offence, whether military or non-military, shall not be again tried or punished for the same offence by any Court whatsoever.

But any such person may be dismissed the service.

Prohibition of Arrest for Debt.

(*b.*)—No person attested under this Act or any previous Articles of War for Her Majesty's Indian Army, shall, so long as he belongs to such Army, be liable to be arrested for debt under any process issued by, or by the authority of, any Court of Law.

The Judge of any such Court may examine into any complaint made by such person or his superior Officer, of the arrest of such person contrary to the intent of this Act, and may by warrant under his hand discharge such person, and shall award reasonable costs to the complainant, who may recover such costs in like manner as he might have recovered costs awarded to him by a decree against the person obtaining such process.

The arms, horse, clothes, equipments, regimental accoutrements, and necessaries of any such attested person shall not be seized, nor shall his pay and allowances or any part thereof be attached, in satisfaction of any judgment against him or any person whom he may represent.

Breach of Cantonment Rules.

(*c.*)—When any offence in breach of any duly authorized Cantonment rule or regulation is committed by any person not subject to the said Articles, and not an European British subject or an Officer or Soldier, the Officer Commanding the Cantonment may, where there is no Cantonment Magistrate, summon or order the apprehension of the offender; and such Officer may (after personally investigating the case) sentence the offender to pay a fine not exceeding 50 Rupees; or in default of payment of, or in lieu of, such fine, to imprisonment in any jail or military guard for a period not exceeding thirty days.

The Officer in charge of any jail shall, on the delivery to him of the person of the offender, with a warrant under the hand of the said Commanding Officer, detain the offender, according to the exigency of the warrant, or until he is discharged by due course of law.

Capture of Deserters.

(*d.*)—Whenever any person subject to the said Articles deserts, the Commanding Officer of the regiment, corps or detachment to which he

belongs, shall give written information of the desertion to such Civil, Political, or Police authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter, in like manner as if he were a person for whose capture a warrant had been issued by a Magistrate, and shall deliver the deserter when apprehended to military custody.

Such authorities shall also, by such means as appear to them best adapted for the purpose, prevent persons reasonably suspected to be subject to the said Articles from travelling through the districts subject to their jurisdiction, unless on duty, or furnished with a certificate of leave or discharge.

Any Police Officer may arrest, without warrant, any person so suspected, and shall bring him without delay before the nearest Magistrate, or the nearest Military Commanding Officer when no Magistrate is readily accessible, to be dealt with according to law.

Apprehension of Military Offenders.

(*e.*)—Whenever any person subject to the said Articles, who is accused of any military offence, is within the jurisdiction of any Civil Political, or Police Officer, such Officer shall aid in the apprehension and delivery to military custody of such person upon receipt of a written application to that effect, signed by his Commanding Officer.

Presumption as to signatures.

(*f.*)—In any proceeding under this Act, any application, certificate warrant, reply or other document purporting to be signed by an Officer in the civil or military service of Government shall, on production, be presumed to have been duly signed by the person and in the character by whom and in which it purports to have been signed, until the contrary is shown.

Native Troops serving out of their own Presidency.

(*g.*)—When any portion of the Native troops belonging to any Presidency is serving within the limits of any other Presidency, such troops shall, during such service, for all the purposes of the said Articles be under the authority and orders of the Commander-in-Chief of the Presidency in which they are serving:

Provided that it shall be lawful for the Governor-General of India in Council to direct that, for the purposes of the said Articles, Native troops serving out of their own Presidency shall continue subject to the authority and orders of the Commander-in-Chief of the Presidency to which such troops belong.

Power to make Orders and issue Warrants.

(*h.*)—The Governor-General of India in Council,

The Governors of Fort Saint George and Bombay in Council,

The Commander-in-Chief of any Presidency,

may respectively make all orders and issue all warrants for holding Courts Martial or otherwise, which appear necessary for the purposes of this Act; and in the case of military offences requiring to be disposed of without delay, the Governor-General of India in Council, and the Governors of Fort St. George and Bombay in Council may respectively

further authorize any Officer empowered by Order in Council to confirm, commute, remit or annul sentences in such cases, to refer such sentences for orders to the Commander-in-Chief of the Presidency.

Limitation of Powers.

(*i.*)—Nothing hereinbefore contained shall empower the Commander-in-Chief of a Presidency to readmit to service or pension any person not within his command, or to authorize any Officer to appoint, or to confirm, commute, remit or annul the sentences of Courts Martial for the trial of any person not within the command of such Commander-in-Chief, except in the case specified in the proviso in Clause (*g*) of this Part,

or shall empower any Government to give directions as to the composition of, or to authorize the appointment of, Courts Martial in any place for the time being subject to any other Government.

Nothing in this Act shall be deemed to affect the authority conferred on the Commander-in Chief in India by any Act of Parliament or by Royal warrant or commission.

Power to make Rules.

(*j.*)—It shall be lawful for the Governor-General of India in Council from time to time to make rules consistent with this Act, for the guidance of Officers, whether Military, Civil, or Political, in all matters connected with its enforcement.

All such rules shall be published in the *Gazette of India*, and shall thereupon be deemed to have the force of law.

The Commander-in-Chief in India, as regards the Presidency of Fort William and Forces not attached to any Presidency, may, with the previous sanction of the Governor-General of India in Council, and the Commanders-in-Chief of the Presidencies of Fort Saint George and Bombay as regards their respective Presidencies, may, with the previous sanction of the local Government, from time to time substitute for the forms of affirmation given in Articles 109 and 111 as appropriate to Native Officers and witnesses, such other forms as may be thought appropriate to Native Officers and witnessess of any religion.

Articles to be read periodically.

(*k.*)—The following Articles, namely, Articles 3, 4, 5, 7 to 71, both inclusive, 90, 91, 92, 93, 94, 125, 126, 130, 131, 132, 133, 135, 136, 137, 138, 139, 154, 167, and 176, shall be read once in every three months at the head of every regiment, corps, troop, or company in the service.

APPENDIX.

PART I.—DEFINITION IN THE INDIAN PENAL CODE.

[See PART I, CLAUSE (*e*).]

Wrongful gain.

23. "Wrongful gain" is gain, by unlawful means, of property to which the person gaining is not legally entitled.

Wrongful loss.

"Wrongful loss" is the loss, by unlawful means, of property to which the person losing it is legally entitled.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

Dishonestly.

24. Whoever does anything with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing "dishonestly."

Fraudulently.

25. A person is said to do a thing fraudulenty if he does that thing with intent to defraud, but not otherwise.

Reason to believe.

26. A person is said to have "reason to believe" a thing, if he has sufficient cause to believe that thing, but not otherwise.

OF HURT.

Hurt.

319. Whoever causes bodily pain, disease, or infirmity to any person is said to cause hurt.

Grievous Hurt.

320. The following kinds of hurt only are designated as "grievous":—

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life, or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing hurt.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

Voluntarily causing grievous hurt.

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause, or knows himself to be likely to cause, is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending, or knowing himself to be likely, permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days; A has voluntarily caused grievous hurt.

Of Criminal Force and Assault.

Force.

349. A person is said to use force to another if he causes motion, change of motion, cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling: Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described.

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion, or change, or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

Criminal Force.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause, injury, fear, or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations.

(*a.*) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(*b.*) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, A has committed criminal force to Z.

(*c.*) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motions to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally without Z's

consent, in order to the commission of an offence, A has used criminal force to Z.

(*d.*) A intentionally pushes against Z in the street. Here A has, by his own bodily power, moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used criminal force to Z.

(*e.*) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes, or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten, or annoy Z, he has used criminal force to Z.

(*f.*) A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy her, he has used criminal force to her.

(*g.*) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling: A has therefore intentionally used force to Z; and if he has done this without Z's consent, intending or knowing it to be likely that he may thereby cause injury, fear, or annoyance to Z, A has used criminal force.

(*h.*) A incites a dog to spring upon Z, without Z's consent. Here if A intends to cause injury, fear, or annoyance to Z, he uses criminal force to Z.

Assault.

351. Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations.

(*a.*) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(*b.*) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(*c.*) A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other

circumstances might not amount to an assault, the gesture explained by the words may amount to an assault.

Theft.

378. Whoever intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

Explanation 1.—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving, affected by the same act which affects the severance, may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustrations.

(*a.*) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession, without Z's consent. Here as soon as A has severed the tree in order to such taking, he has committed theft.

(*b.*) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(*c.*) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(*d.*) A being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(*e.*) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It would not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(*f.*) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(*g.*) A finds a ring lying on the high-road, not in the possession of any person. A, by taking it, commits no theft though he may commit criminal misappropriation of property.

(*h.*) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring

from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring commits theft.

(*i.*) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(*j.*) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(*k.*) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he had borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(*l.*) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z, as a reward for its restoration. Here A takes dishonestly: A has therefore committed theft.

(*m.*) A being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's books. If this was A's impression, A has not committed theft.

(*n.*) A asks charity from Z's wife. She gives A money, food, and clothes, which A knows to belong to Z, her husband. Here, it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(*o.*) A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(*p.*) A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

OF EXTORTION.

Extortion.

383. Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into valuable security, commits "extortion."

Illustrations.

(*a.*) A threatens to publish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(*b.*) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(*c.*) A threatens to send club-men to plough up Z's field, unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(*d.*) A by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

II.—Indian Penal Code, Chapter V.

Of Abetment.

Sections 107 and 108.

(See *Article* 71.)

Abetment of a thing.

107. A person abets the doing of a thing who—

First.—Instigates any person to do that thing; or,

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or,

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact, and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor.

108. A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence, although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

(*a.*) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(*b.*)—A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(*a.*) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence if commited by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(*b.*) A, with intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment does the act, and thereby causes Z's death. Here, though B was not capable by law of committing an offence A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(*c.*) A instigates B to set fire to a dwelling-house. B, in consequence of unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(*d.*) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C yas been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this Section, and is liable to the punishment for murder.

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ACT No. VI. OF 1869.

An Act to amend the law relating to the Emigration of Native Labourers.

Preamble.

Whereas it is expedient to amend the law relating to the emigration of Native Labourers; It is hereby enacted as follows:

Probable length of winter voyage from Madras to Reunion or Mauritius.

I. The probable length of the voyage from Madras to Reunion, Mauritius, or Seychelles shall, notwithstanding any thing contained in Act XLVI. of 1860 (*to authorize and regulate the Emigration of Native Labourers to the French Colonies*) or Act XIII. of 1864 (*to consolidate anl amend the law relating to the Emigration of Native Labourers*) Section 8, be deemed to be, between the months of November and March inclusive, six weeks.

Licensing of recruiters.

II. For Section 24 of the said Act XIII. of 1864, the following shall be substituted:—

Persons to license recruiters.

"24. The Protector of Emigrants at each of the three ports aforesaid and the British Consular Agent at each of the French Ports in India, shall license so many fit persons as shall to him seem necessary to be recruiters of labourers, and no person shall act or be employed as a recruiter of labourers except under a license from such Protector of Emigrants or British Consular Agent."

Refund of fee for emigration.

III. For Section 31 of the said Act XIII. of 1864, the following shall be substituted:—

Fee for emigration.

"31. For the registration of every emigrant, the recruiter shall pay to the Magistrate a fee of one rupee.* On proof of the desertion of any emigrant before embarkation, the fee paid in respect of such emigrant may be refunded by the Magistrate to the recruiter by whom it was paid, under such rules as shall from time to time be made in that behalf by the Governor-General of India in Council.

Time of sailing for places west of Cape.

IV. Notwithstanding any thing contained in the same Act, Section 45, the local Government may, in cases of emergency, permit emigrants for any place west of the Cape of Good Hope to leave the port of Calcutta between the 31st day of July and the 1st day of April.

* This fee may be increased.—See Act VI, 1870.

Increase of space allowed to adult emigrants.

V. Notwithstanding anything contained in the same Act, Section 47, no compartment in an emigrant ship shall take more than one adult emigrant for every twelve superficial feet on deck, and for every cubic space of seventy-two feet, or more than one child who shall have completed two and shall not have completed ten years of age for every eight superficial feet on deck.

Power to prohibit emigration.

VI. Whenever the Governor-General of India in Council or the local Government has reason to believe that in any place to which emigration is lawful, the plague or other infectious disease dangerous to human life has broken out,

or that proper measures have not been taken for the protection of emigrants immediately upon their arrival in such place or during their residence therein,

or for their safe return to India,

or to provide a return passage to India for any such emigrants at or about the time at which they are entitled to such return-passage,

the said Governor-General in Council or the local Government may, by notification published in the *Gazette of India* or local Gazette (as the case may be), declare that emigration from British India or from the territories subject to the local Government (as the case may be) to such place shall cease and be prohibited from a certain day to be specified in the notification.

Any notification issued by the local Government under this Section may be cancelled by order of the said Governor-General in Council.

Power to relax rule as to proportion of women.

VII. Notwithstanding anything contained in the said Act XIII. of 1864, Section 63, or in any rules made or to be made by the Governor-General of India in Council pursuant thereto, the local Government may, in cases of emergency, permit any vessel carrying emigrants to leave the port of Calcutta, although the proportion of women embarked on board such vessel is not in accordance with the said rules.

"Magistrate of the District."

VIII. The third clause of Section 2 of the same Act is hereby repealed, and the phrases "Magistrate of such District" and "Magistrate of the District," wherever they occur in such Act, shall be held to mean any officer exercising in such District the full powers of a Magistrate.

Power to increase fees.

IX. The Governor-General of India in Council may, from time to time by notification in the *Gazette of India*, increase any fee payable under Sections 19, 27, and 34 of the said Act XIII. of 1864, and may also in like manner reduce to its present amount any fee so increased: Provided that no fee shall be increased under this Section by more than double such amount.

X. and XI. *Repealed by the Repealing Act* XIV., 1870.

ACT No. VII. OF 1869.

An Act to give validity to certain Rules relating to Forests in British Burmah.

Preamble.

Whereas certain Rules for the better management and preservation of the Government Forests in British Burmah, dated the 2nd day of August, 1865, were framed under

Act VII. of 1865 (*to give effect to Rules for the management and preservation of Government Forests*), and were confirmed by the Governor-General of India in Council and published in the *Gazette of India*, dated the 12th day of August, 1865; and whereas certain of the said Rules relate to timber not the produce of such forests, and it is expedient to validate such Rules; It is hereby enacted as follows:

Validation of Burmah Forest Rules.

I. The Rules for the better management and preservation of the Government Forests in British Burmah, dated the 2nd day of August, 1865 shall, from such day down to the passing of this Act, be deemed to have had the force of law as regards all timber to which they purport to relate, and shall continue in force until the said Governor-General in Council shall otherwise order.

II. *Repealed by the Repealing Act XIV.*, 1870.

Act No. VIII. of 1869.

1. Short Title.
2. Repeal of Schedule.
3. Amendment of certain Sections of Code of Criminal Procedure.
4. New Sections.
23A.—Local Government may delegate its power of appointing Magistrate's.
23B.—Succession to vacancies in the office of the Magistrate of a District.
23C.—Power to determine local jurisdiction of a Magistrate of a District.
23D.—Power to appoint Magistrate in charge of Divisions of Districts.
23E.—Continuance of powers of officers transferred.
23F.—Powers may be varied or cancelled.
23G.—Subordination of all Magistrates to the Magistrate of the District.
23H.—Delegation of certain powers of the Magistrate of a District.
31A.—Concealment, &c, of kidnapped person.
36. Magistrate may withdraw any case from a Subordinate Court, and try it himself or refer it to any other such Court
40A.—Certain Subordinate Magistrates not to hear complaints against European British subjects.
44. Court may apply portion of fine in compensation for loss or damage.
49A.—Power conferred under Section 49 of the Code may be exercised by Inspector-General of Jails.
61. Levy of fine.
66A.—Local Government to define what Magistrates and Subordinate Magistrates shall be empowered to entertain complaints preferred directly to themselves or on report of Police Officer.
66B.—Magistrate of District may invest any Magistrate or Subordinate Magistrate with powers described in Section 66A.
70. Summons by whom served.
75. Provisions in this chapter relating to summons and its issue applicable to all summonses.
77. Warrants to whom directed.
86. Warrants to be endorsed may be sent by post.
99. Provisions in Chapter V., relating to a warrant and its issue applicable to all warrants.
114. Search-warrant when grantable.
115. Direction of search-warrant.
121. Magistrate may send search-warrant by post to the Magistrate of another District. Procedure to be observed by such Magistrate.
127. Search of house suspected to contain stolen property or forged document.
130. Procedure by Police officer upon seizure of property.
131. Procedure where the owner is unknown.
132. Procedure if no claimant appear within six months from date of proclamation.
132A.—Order for disposal of property.
132B.—Stay of such order.
132C.—Order may take form of reference.
133. Police officers to make enquiry into certain offences only when directed to do so by Magistrate.
137. If officer in charge of Police station see no sufficient ground for an enquiry.
140. Procedure when a Police Officer deputes another.
150. So much of any statement or confession made by the accused as relates to a fact thereby discovered, may be given in evidence.
158. Prosecutors and witnesses to execute recognizances to appear before the Magistrate.
161. Police to make immediate enquiry and report on unnatural and sudden deaths.
164. Discharge of an offender on his submission.
173. Civil Courts empowered to complete investigation and commit accused to Court of Session.
179. Magistrate may issue his warrant. May issue a summons instead of a warrant.
185. Restoration of property declared to be forfeited.
203. No influence to be used to induce disclosures.
208. Sections 188 to 192 to apply to witnesses for defence.
209. Magistrate may tender pardon to accomplice.
210. High Court or Court of Session may direct tender of pardon.

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* Declared applicable to the Hyderabad Assigned District, by G. O. No. 152,—see *Gazette of India*, June 26th, 1869, p. 72.

211 High Court or Court of Session may direct the commitment of a person to whom a pardon may have been tendered
221. In what cases the powers given by Sections 219, 220, may be exercised.
222 Warrant of commitment how to be directed, &c
226A —When accused appears to have to have been insane
248. Cases in which Magistrate may issue a warrant. Summons instead of warrant.
249. Issue of process, &c
257 Cases in which summons shall issue When warrant may issue.
262A — Examination of accused
270 Compensation in cases of frivolous or vexatious complaints. Recovery of such compensation.
276 Procedure of Subordinate Magistrate in cases beyond his jurisdiction
280 Personal recognizance to keep the peace in cases of conviction Where the convicting officer has not the powers of a Magistrate
318 Magistrate may order removal of nuisances
310 Persons ordered shall obey, or may claim a jury Constitution of jury. Suspension of order. Procedure in case of non-appointment of or neglect by jury.
311 Procedure in case of disobedience or neglect by persons ordered.
312 Procedure where jury finds Magistrate's order to be reasonable
313. Procedure where person ordered satisfies Magistrate that the order is not reasonable.
314. Injunction pending enquiry by jury
322. Local Government may order trials before Court of Session to be by jury.
331. Revision of list
363 Refusal to plead, or plea of claim.
371. Dying declaration.
372 Defence
373 When accused person may be examined.
374 When accused may address the Court
379A —Withdrawal of remaining charges on conviction on one of several charges.
380A —Rules of evidence
383 Execution of sentence of Court in cases referred to the High Court for confirmation of sentence.
384 Court of Session to send copy of finding and sentence to District Magistrate. Procedure after sentence passed by Court inferior to Session Court
385 Execution of sentence under Section 383 or 384
395 Lunatic prisoners to be visited Procedure where lunatic prisoner is certified to be capable of making his defence. Procedure where lunatic confined under Section 394 is declared capable of being discharged
406 Proceedings of a case revised by High Court to be certified, to Court in which conviction was had. Proviso
409. Appeals from Magistrates.
413 Appeals from orders under Chapter X
415 Period for presenting petitions of appeal.
421 Appellate Court may suspend sentence pending appeal, and release defendant on bail.
422 Appellate Court may direct further enquiry, &c
427 Court of Appeal how to proceed in case of conviction by a Court not having jurisdiction.
432 Right of accused to be defended by Counsel.
435 When Court of Session may order commitment of person discharged by Magistrate.
438 Expenses of prosecutors and witnesses
440 Copy of sentence or order to be furnished on application.
440A —Extension of Code of Criminal Procedure
440B —Procedure in cases triable by the Court of Session.
440C — Appeals
440D.—When High Court consists of one Judge.

An Act further to amend the Code of Criminal Procedure.

Preamble

Whereas it is expedient further to amend the Code of Criminal Procedure; It is hereby enacted as follows:

Short Title.

I. This Act may be called "The Code of Criminal Procedure Amendment Act, 1869:" it shall be read with, and taken as part of, Act XXV. of 1861, and it shall come into operation on the 1st day of June, 1869.

Repeal of Schedule.

II. The Schedule annexed to the said Code is hereby repealed, and the Schedule annexed to this Act shall be read in lieu thereof.

Amendment of certain Sections of Code of Criminal Procedure.

III. The following Sections of the Code of Criminal Procedure, namely, Sections 26, 27, 28, 29, 30, 31, and 33, shall be read as if the words "or division of a district," and the words "or divisions of a district" and the words "or of two or more divisions of a district" were omitted therefrom.

New Sections.

IV. The said Code shall be read as if such of the following Sections as are distinguished by numbers and letters were respectively inserted next after the Sections of the said Code distinguished by those numbers.

Of the following Sections, those distinguished by numbers only shall

be substituted for the corresponding Sections in the same Code, which are hereby repealed.

Local Government may delegate its power of appointing Magistrates.

XXIII A.—With the sanction of the Governor-General in Council, the local Government may delegate, with such limitations as it may think proper, to any officer under its control, the power conferred by Section 23.

Succession to vacancies is the office of the Magistrate of a District.

XXIII B.—When, in consequence of the office of the Magistrate of a District becoming vacant, any officer succeeds temporarily to the chief executive administration of the District in criminal matters, such officer shall, pending the orders of the local Government, exercise all the powers and perform all the duties of the Magistrate of the District.

Power to determine local jurisdiction of a Magistrate of a District.

XXIII C.—The local Government may, by notification in the official Gazette, prescribe the local jurisdiction of a Magistrate of the District, as defined by Section 14, and may by such notification from time to time alter such jurisdiction.

Power to appoint Magistrates in charge of Divisions of Districts.

XXIII D.—The local Government may invest any Magistrate with the local jurisdiction in a particular part of a District declared by Section 18 to be deemed a Division of a District, and may from time to time alter the limits of such local jurisdiction.

Continuance of powers of officers transferred.

XXIII E.—Whenever any person holding an office in the service of Government, who has been invested with any powers under this Act in any District, is transferred to an equal or higher office of the same nature within another District, he shall, unless the local Government shall otherwise direct, continue to exercise the same powers in the District to which he is so transferred.

Powers may be varied or cancelled.

XXIII. F.—The local Government may vary or cancel any powers with which any person may have been invested under this Act.

Subordination of all Magistrates to the Magistrate of the District.

XXIII G.—Except as otherwise provided in this Act or by any other law for the time being in force, all Magistrates and Subordinate Magistrates shall be subordinate to the Magistrate of the District in which they exercise jurisdiction.

Delegation of certain powers of the Magistrate of a District.

XXIII H.—The local Government may, with such limitations as it may think proper, invest any Magistrate in charge of a Division of a District or any officer exercising the full powers of a Magistrate, with the authority conferred on the Magistrate of the District by Sections, 36, 66, 132, 308, 316, and 318.

Concealment, &c., of kidnapped person.

XXXI A.—If any person be charged under Section 368 of the Indian Penal Code, with the offence of wrongfully concealing or keeping in confinement a person who has been kidnapped or abducted, such offence may be enquired into or determined in any District in which the concealment or confinement has taken place, or in any District in which the kidnapping or abduction may be enquired into or determined.

Magistrate may withdraw any case from a subordinate Court, and try it himself or refer it to any other such Court.

XXXVI. The Magistrate of the District, or a Magistrate in charge of a Division of a District, may respectively withdraw any criminal case from any Court subordinate to him, and may enquire into or try the case himself, or refer it for enquiry or trial to any other such Court competent to enquire into or try the same.

Certain Subordinate Magistrates not to hear complaints against European British subjects.

XL A.—No Subordinate Magistrate who is not a Justice of the Peace shall exercise the authority conferred by Section 40, unless he is empowered under Section 38.

Court may apply portion of fine in compensation for loss or damage.

XLIV. Whenever a Criminal Court imposes a fine, the Court may order the whole or any part of the fine to be paid in compensation,

(1) for expenses properly incurred in the prosecution.

(2) for the offence complained of, where such offence can, in the opinion of the Court, be compensated by money.

Such payment shall be made as the Court thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If the fine be awarded by a Court whose decision is subject to revision, the amount awarded shall not be paid until a period of two months shall have elapsed from the date of the award.

Power conferred under Section 49 of the Code may be exercised by Inspector-General of Jails.

XLIX A.—The power conferred on the local Government by Section 49 may be exercised, under the orders and subject to the control of Government, by the Inspector-General of Jails.

Levy of fine.

LXI. Whenever an offender is sentenced to pay a fine, the Court which sentences him, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment, may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender. Such warrant may be executed within the jurisdiction of the Court that issued it, and it shall authorize the distress and sale of any moveable property belonging to the offender without the jurisdiction of the said Court when endorsed by the Magistrate of the District in which such property is situated.

Local Government to define what Magistrates and Subordinate Magistrates shall be empowered to entertain complaints preferred directly to themselves or on report of Police officer.

LXVI A.—The local Government may, by notification in the official Gazette, define what Magistrates or Subordinate Magistrates shall entertain cases either on complaint preferred directly to themselves or on the report of a Police officer; and such Magistrates or Subordinate Magistrates shall be competent to entertain such cases, if the offence charged is triable by them or if they shall have been empowered under Section 38.

Magistrate of District may invest any Magistrate or Subordinate Magistrate with powers described in Section 66 A.

LXVI. B.—The Magistrate of the District may, subject to the orders of the local Government, empower any Magistrate or Subordinate Magistrate in his District to entertain cases either on complaint preferred directly to themselves or on the report of a Police officer.

Summons by whom served.

LXX. A summons shall ordinarily be issued through a Police officer; but the Magistrate issuing the summons may, if he see fit, direct it to be served by any other person.

Provisions in this chapter relating to a summons and its issue applicable to all summonses.

LXXV. The provisions relating to a summons and its service and issue contained in this chapter, shall be applicable to every summons issued under this Act, except summonses to serve as a juror or assessor :

Provided that, when the person summoned is in the service of Government or of any Railway Company, the Court or Magistrate issuing the summons may send the summons to the head of the office in which the person summoned is employed, and such head shall thereupon cause the summons to be served on the person named therein.

Warrants to whom directed.

LXXVII. A warrant shall ordinarily be directed to a Police officer, but the Magistrate issuing a warrant may, if he see fit, direct it to any other person.

Warrants to be endorsed may be sent by post.

LXXXVI. A Magistrate issuing a warrant for the arrest of a person out of his jurisdiction, may direct the warrant to any Magistrate within whose jurisdiction such person is, or is supposed to be, and may send the same by post.

On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name thereon, and enforce its execution in the same manner as if the warrant had been originally issued by himself.

If the person named in the warrant be apprehended, he shall be carried before the Magistrate who endorsed it, and shall be dealt with by such Magistrate as provided in Section 84.

Provision in Chapter V. relating to a warrant and its issue applicable to all warrants.

XCIX. The provisions relating to a warrant and its service and issue contained in this chapter shall be applicable to every warrant of arrest issued under this Act.

Search-warrant when grantable.

CXIV. When a Magistrate considers that the production of anything is essential to the conduct of an enquiry into an offence known or suspected to have been committed, or when he considers that such enquiry will be furthered by the search or inspection of any house or place, he may grant his search-warrant, and the officer charged with the execution of such warrant may search any house or place within the jurisdiction of such Magistrate.

The Magistrate may, if he see fit, specify in his warrant the house or place, or part thereof, to which only the search or inspection shall extend, and the officer charged with the execution of such warrant shall then search only the house, place or part so specified.

Direction of search-warrant.

CXV. A search-warrant shall ordinarily be directed to a Police officer, but the Magistrate issuing the warrant may, if he see fit, direct it to any other person.

Magistrate may send search-warrant by post to the Magistrate of another District.

CXXI. A Magistrate issuing a search-warrant to be executed in any house or place out of the jurisdiction of the Magistrate of the District, may direct the warrant to any Magistrate within whose jurisdiction such house or place is situate, and may send the same by post.

Procedure to be observed by such Magistrate.

On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name thereon and enforce its execution in the same manner as if it had been originally issued by himself.

If the warrant is to be executed within the local limits of the High Court, it shall be addressed to the Commissioner of Police or to a Police

Magistrate. In such case any property found on search made, may be dealt with as provided in Sections 118 and 119.

Search of house suspected to contain stolen property or forged documents.

CXXVII. If the Magistrate of the District or a Magistrate in charge of a Division of a District, or any other officer exercising the powers of a Magistrate, upon information and after such enquiry as he may think necessary, has reason to believe that any house or other place is used as a place for the deposit or sale of stolen property, or for the deposit or sale or manufacture of forged documents or counterfeit Government stamps or counterfeit coin, or instruments or material for counterfeiting coin or for forging,

or that any forged documents or counterfeit stamps or false seals or any counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any house or other place,

he may by his warrant authorize any Police officer above the rank of a constable to enter, with such assistance as may be required, and by force, if necessary, any such house or other place, and to search all such parts of the same as are specified in the warrant, and to seize and take possession of any property, documents, stamps, seals, or coins therein found, which he may reasonably suspect to be stolen, forged, false, or counterfeit, and also of any such instruments and materials as aforesaid.

Procedure by Police officer upon seizure of property.

CXXX. The seizure by any Police officer of property alleged or suspected to have been stolen, or of property seized by any Police Officer under circumstances which create suspicion of the committal of any offence, shall be forthwith reported to a Magistrate, who shall thereupon make such order respecting the custody and production of the property as he shall think proper.

If the property is of a perishable nature, or if it appear to the Magistrate that its sale would be for the benefit of the owner, he may at any time direct it to be sold and shall hold the proceeds in trust for the owner subject to the provisions contained in Sections 131 and 132:

Provided that no Subordinate Magistrate of the second class shall exercise this power unless he is generally or specially authorized to do so by the Magistrate of the District.

Procedure where the owner is unknown.

CXXXI. When the owner of any such property is unknown, the Magistrate may detain the same, or the proceeds thereof if sold, and in case of such detention shall issue a proclamation specifying the articles of which such property consists or consisted, and requiring any person who may have a claim thereto or to the proceeds thereof to appear before him and establish his claim within six months from the date of such proclamation.

Procedure if no claimant appear within six months from date of proclamation.

CXXXII. If no person within such period establishes his claim to such property or proceeds, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, the property shall be at the disposal of the Government, and may be sold under the orders of the Magistrate of the District, or if it has been already sold by the Magistrate, the proceeds shall be at the disposal of the Government.

CXXXII A.—When the trial in any Criminal Court is concluded,

Order for disposal of property.

the Court at the time of passing judgment may pass such order as appears right for the disposal of any property produced before it regarding which any offence appears to have been committed.

Stay of such order.

CXXXII B.—Any Court of appeal, reference or revision may direct any such order passed by a Court subordinate thereto to be stayed and may modify, alter or annul it.

Order may take form of reference.

CXXXII C.—The order passed by any Court under Section 132A or 132B may be in the form of a reference of the property to the Magistrate of the District, who shall in such cases deal with it as if he were acting under Sections 130, 131, and 132 under the circumstances mentioned in Section 130, and the seizure had been reported to him by the Police.

Police officers to make enquiry into certain offences only when directed to do so by Magistrate.

CXXXIII. Except as provided in Section 108, no Police officer shall, without an express order from a Magistrate, enquire into or take cognizance of any offence punishable under the Indian Penal Code, other than the offences described in column 3 of the Schedule annexed to this Act, as offences for which a Police officer may arrest without warrant. But it shall be competent to a Magistrate, upon the report of a Police officer or otherwise, to direct the enquiry to be made by a Police officer into any offence punishable under the Indian Penal Code or under any special or local law.

If officer in charge of Police station see no sufficient ground for an enquiry.

CXXXVII. Provided, also, that, if it appear to the officer in charge of Police station that there is no sufficient ground for entering on an enquiry, or that the immediate apprehension of the accused is not necessary for the ends of justice, he shall not proceed in the case, but shall report the substance of the complaint or information for the orders of the Magistate having jurisdiction.

Procedure when a Police officer deputes another.

CXL. When any officer in charge of Police station requires any officer subordinate to him to make, without a warrant, an arrest which may lawfully be made by such officer without a warrant, he shall deliver to the Police officer required to make the arrest an order in writing specifying the person to be arrested, and the offence for which the arrest is to be made.

The provisions of Sections 82, 90, 91, 92, 93, 94, 95, and 96 shall be applicable to every order in writing issued under this Section.

So much of any statement or confession made by the accused as relates to a fact thereby discovered, may be given in evidence.

CL. Provided that, when any fact is desposed to in evidence as discovered in consequence of information received from a person accused of any offence or in the custody of a Police officer, so much of such information, whether it amounts to a confession or admission of guilt or not, as relates distinctly to the fact thereby discovered, may be received in evidence.

Prosecutors and witnesses to execute recognizances to appear before the Magistrate.

CLVIII. Every prosecutor and witness, whose attendance before the Magistrate is deemed necessary by the Police officer making the enquiry, shall execute a recognizance in the form (E) given in the Appendix hereto annexed, or to the like effect, for appearance before the Magistrate having jurisdiction in respect of the offence on a fixed day.

Such day shall be the day whereon the accused person is to appear, if he shall have been admitted to bail, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

The officer in whose presence the recognizance is executed, shall, after delivering to the prosecutor or one of the witnesses a duplicate thereof, send it with his report to the Magistrate.

No Police officer shall accompany the prosecutor or witnesses on his or their way to the Court of the Magistrate.

Police to make immediate enquiry and report on unnatural and sudden deaths.

CLXI. The officer in charge of a Police station, on receiving notice or information of the unnatural or sudden death of any person, shall immediately give intimation thereof to the nearest Magistrate, and proceed to the place where the body of such deceased person is, and there in the presence of two or more respectable inhabitants of the neighbourhood, shall make enquiry, and report the apparent cause of death, describing any mark of violence which may be found on the body, and stating in what manner or by what weapon or instrument such mark appears to have been inflicted.

The report shall be signed by such Police officer and other persons or by so many of them as concur therein, and shall be forthwith forwarded to the Magistrate.

When there may be any doubt regarding the cause of death, such Police officer shall forward the body, with a view to its being examined, to the nearest Civil Surgeon, or other medical officer appointed in this behalf by the local Government if the state of the weather and the distance admit of its being so forwarded without risk of putrefaction on the road.

In the Presidencies of Madras and Bombay it shall be the duty of the head of the village to make the enquiry and report as aforesaid.

Discharge of an offender on his submission.

CLXIV. When any Court has adjudged an offender to punishment, or forwarded him to a Magistrate or Justice of the Peace for trial under Section 163, for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Civil Courts empowered to complete investigation and commit accused to Court of Session.

CLXXIII. In any case triable by the Court of Session exclusively, any Civil Court before which any such offence was committed may, instead of sending the case for investigation to a Magistrate, complete the investigation itself, and commit or hold to bail the accused person to take his trial before the Court of Session.

For the purposes of investigation under this Section the Civil Court may exercise all the powers of a Magistrate.

Magistrate may issue his warrant.

CLXXIX. When any complaint is made to the Magistrate of the District or any other officer exercising the powers of a Magistrate, or to any Subordinate Magistrate empowered to commit persons for trial before the Court of Session, that any person has committed, or is suspected to have committed, any offence triable exclusively by the Court of Session, or which, in the

opinion of such Magistrate, ought to be tried by the Court of Session, such Magistrate may issue his warrant to arrest such person:

May issue a summons instead of a warrant.

Provided that, in any such case the Magistrate to whom such complaint is made may, if he thinks fit, instead of issuing in the first instance his warrant to arrest the accused person, issue his summons requiring him to appear to answer to such complaint.

Restoration of property declared to be forfeited.

CLXXXV. When any person whose property has been declared to be at the disposal of Government under Section 184 appears or is found within two years after the attachment of the property, and proves to the satisfaction of the Court trying him for the offence of which he was accused, or, if not tried or committed for trial for that offence, to the satisfaction of the Magistrate of the District, that he did not abscond or conceal himself for the purpose of evading justice, such property, or if the same has been sold, the proceeds thereof, shall be restored to him.

No influence to be used to induce disclosures.

CCIII. Except as provided in Section 209 no influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge.

Sections 188 to 192 to apply to witnesses for defence.

CCVIII. The provisions of Sections 188 to 192 (both inclusive) shall be applicable to witnesses named in support of the defence who may be summoned by the Magistrate.

Magistrate may tender pardon to accomplice.

CCIX. The Magistrate of the District or other officer exercising the powers of a Magistrate and any Subordinate Magistrate duly empowered under Section *26, recording his reason for so doing, may tender a pardon to any one or more of the persons supposed to have been directly or indirectly concerned in or privy to any offence specified in column 7 of the Schedule hereto annexed as triable† by the Court of Session, on condition of his or their making a full, true, and fair disclosure of the whole of the circumstances within his or their knowledge relative to the crime committed, and every other person concerned in the perpetration thereof.

If any person accepts a tender of pardon under this Section, he shall be examined as a witness in the case under the rules applicable to the examination of witnesses.

Such person, if not on bail, may, if the Magistrate or other officer as aforesaid thinks proper, be detained in custody pending the termination of the trial.

High Court or Court of Session may direct tender of pardon.

CCX. The High Court as a Court of reference in cases tried with the aid of assessors, and the Court of Session, after committal but before the commencement of a trial, may, with a view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in or privy to any such offence, instruct the Magistrate to tender a pardon on the same condition to such person or persons.

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* For Sec. 236 read Sec. 38. See *Gazette of India*, 19th June 1869, G. O. No. 2.

† The Magistrate has no power to tender a pardon in a case triable by himself. Reg. *v.* Remedios and others, 3 B. R., C. C., p. 60.

The Court of Session in like manner and on the same condition may, at any time during a trial, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in or privy to any such offence, tender a pardon to such person or persons.

When High Court or Court of Session may direct the commitment of a person to whom a pardon may have been tendered.

CCXI. When a pardon has been tendered under Section 209 or Section 210, if it appears to the Magistrate before the committal or to the Court of Session at the time of trial, or to the High Court as a Court of reference, that any person who has accepted an offer of pardon has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing anything essential, or by giving false evidence or information, such Magistrate or Court may commit or direct the commitment of such person for trial for the offence in respect of which the pardon was so tendered.

In what cases the powers given by Sections 219, 220 may be exercised.

CCXXI. The powers given by Sections 219 and 220 may be exercised by every Criminal Court in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such party or witness before such Court according to the conditions of such recognizance or bail:

Provided that the Magistrate or Court may at his or its discretion remit any portion of the penalty mentioned in the personal recognizance or in the recognizance of the surety or sureties, and enforce payment in part only.

All orders passed by any Magistrate under this Section or Section 219 or Section 220 shall be subject to revision by the Magistrate of the District.

Warrant of commitment how to be directed, &c.

CCXXII. Every warrant for the commitment of a person to custody shall be in writing and signed and sealed by the Judge or Magistrate who issues it, and shall be directed to some jailor, or other officer or person having authority to receive and keep prisoners, and shall be in the form (C) given in the appendix to the said Code, or to the like effect.

When accused appears to have been insane.

CCXXVI A.—When, from the evidence given before a Magistrate, there appears to be sufficient ground for believing that the accused person committed an act which if he had been of sound mind would have been an offence triable exclusively by the Court of Session, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, he shall be sent for trial by the Magistrate before the Court of Session:

If the Magistrate is a Justice of the Peace and the accused person is a European British subject, such person shall be sent for trial before the High Court.

Cases in which Magistrate may issue a warrant.

CCXLVIII. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected to have committed, any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months, such Magistrate may issue his warrant to arrest such person:

Provided that in any such case the Magistrate to whom the complaint is made may, for any sufficient reason, instead of issuing his warrant in the first instance, issue his summons, requiring the person complained against to appear to answer to such complaint.

Summons instead of warrant.

CCXLIX. The provisions of Sections 180 to 206 (both inclusive) and of Sections 212 to 221 (both inclusive) and of Section 224, shall be applicable to cases tried under this chapter.

Issue of process, &c.

On completing the examination of a witness under this Section, the Magistrate, in addition to the memorandum required by Section 199, shall record such remarks as he may think material respecting the demeanour of any witness while under examination.

CCLVII. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected to have committed, any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, the Magistrate may issue his summons directed to such person, requiring him to appear at a certain time and place before such Magistrate to answer to the complaint:

Cases in which summons shall issue

Provided that, if the Magistrate is satisfied or has reason to believe that the accused person is about to abscond, he may, instead of issuing a summons, issue his warrant in the first instance for the arrest of such person.

When warrant may issue

CCLXII A.—The Magistrate may examine the accused person subject to the provisions of Sections 202, 203, 204, and 205.

Examination of accused.

* CCLXX. Whenever the Magistrate dismisses the complaint as frivolous or vexatious, he may, in his discretion, by his order of dismissal, award that the complainant shall pay to the accused person such compensation, not exceeding 50 Rupees, as to such Magistrate seems just and reasonable:

Compensation in cases of frivolous or vexatious complaints.

In such cases, if more persons than one are accused, the Magistrate may in like manner award compensation not exceeding 50 Rupees to each of them:

The sum so awarded shall be recoverable by distress and sale of the moveable property belonging to the complainant, which may be found within the jurisdiction of the Magistrate of the District, and in default of such distress, by imprisonment of the complainant in the civil jail for any time not exceeding thirty days, unless such sum shall be sooner paid.

Recovery of such compensation.

CCLXXVI. If, in the course of a trial before a subordinate Magistrate, the evidence appears to him to warrant a presumption that the accused person has been guilty of an offence which such Magistrate is not competent to try, or for which he is not competent to commit the accused person for trial, he shall stay proceedings and submit the case to the Magistrate to whom he is subordinate, or to such other Magistrate having jurisdiction as the Magistrate of the District may direct:

Procedure of Subordinate Magistrate in cases beyond his jurisdiction.

* Subordinate Magistrates of the second class cannot exercise this power —Reg *v.* Yellapa, 1, B R., p. 181. Amends cannot be awarded for an offence coming under Chap. XIV. of the Cr. P. C., namely, a charge under Section 504, I. P. C.—Reg. *v.* Ramji 5, B. R., C. C., 12.

The Magistrate to whom the case is submitted shall either try the case himself or refer it to any officer subordinate to him having jurisdiction, or he may commit the accused person for trial:

In any such case, such Magistrate or other officer as aforesaid shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court:

But any statement or confession duly made by an accused person in the course of the trial before the Subordinate Magistrate shall be admissible as evidence.

Personal recognizance to keep the peace in cases of conviction.

CCLXXX. Whenever a person charged with rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such charge before any Court of Session or the Magistrate of the District or a Magistrate in charge of a Division of a District or other officer exercising the powers of a Magistrate,

and the Court or Magistrate or other officer as aforesaid by which or by whom the accused person is convicted, or the Court or Magistrate or other officer as aforesaid by which or by whom the final sentence or order in the case is passed, is of opinion that it is just and necessary to require a personal recognizance for keeping the peace from the person so convicted,

the Court or Magistrate or other officer as aforesaid so convicting the accused person, or so passing the final sentence or order as aforesaid, may, in addition, direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year if the sentence or order be passed by a Magistrate, or three years if the sentence or final order be passed by a Court of Session.

If the accused person be sentenced to imprisonment, the period for which he may be required to execute a recognizance shall commence when he is released.

Where the convicting officer has not the powers of a Magistrate.

When any accused person is convicted of any offence specified in this Section by an officer not exercising the powers of a Magistrate, such officer, if he consider it just and necessary to require a personal recognizance for keeping the peace from the person so convicted, shall report the case to the Magistrate of the District, or other officer exercising the powers of a Magistrate to whom such officer may be subordinate, who shall deal with the case as if the conviction had been before himself.

Magistrate may order removal of nuisances.

CCCVIII. Whenever the Magistrate of a District or of a Division of a District, considers that any unlawful obstruction or nuisance should be removed from any thoroughfare or public place,

or that any trade or occupation, by reason of its being injurious to the health or comfort of the community, should be suppressed or should be removed to a different place,

or that the construction of any building or the disposal of any combustible substance, as likely to occasion conflagration, should be prevented,

or that any building is in such a state of weakness that it is likely to fall, and thereby cause injury to persons passing by, and that its removal in consequence is necessary,

or that any tank or well adjacent to any public thoroughfare should be fenced in such a manner as to prevent danger arising to the public—

he may issue an order to the person causing such obstruction or nuisance, or carrying on such trade or occupation, or being the owner or in possession of, or having control over, such building, substance, tank, or well as aforesaid, calling on him, within a time to be fixed in the order,

to remove such obstruction or nuisance,

or to suppress or remove such trade or occupation,

or to stop the construction of such building,

or to remove it,

or to alter the disposal of such substance,

or to fence such tank or well

(as the case may be),

or to appear before himself or some other officer exercising the powers of a Magistrate or of a Subordinate Magistrate of the first class within the time mentioned in the order, and show cause why such order should not be enforced.

Person ordered shall obey, or may claim a jury.

CCCX. The person to whom such order is issued shall be bound, within the time specified in the order, to obey the same or to appear before the Magistrate before whom he was required by the order to appear to show cause as aforesaid, or he may apply to such Magistrate for an order for a jury to be appointed to try whether the order is reasonable and proper.

Constitution of jury.

On receiving such application, the Magistrate shall forthwith appoint a jury consisting of an odd number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant:

Suspension of order.

The execution of the order shall be suspended pending such enquiry, and the Magistrate who issued the order shall be guided by the decision of the jury, which shall be according to the opinion of the majority:

Procedure in case of non-appointment of or neglect by jury.

If the applicant, by neglect or otherwise, prevents the appointment of a jury, or if from any cause the jury so appointed does not decide and report within a reasonable time to be fixed in the order for the appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the Magistrate:

If from any of the above causes no decision be made by the jury, the order of the Magistrate may be carried into effect as hereinafter provided.

Procedure in case of disobedience or neglect by person ordered.

CCCXI. If the person to whom the order mentioned in Section 308 is issued, does not obey such order,

or show cause against the same as hereinafter provided,

or apply for a jury within the time specified in such order,

he shall be liable to the penalty prescribed in that behalf in Section 188 of the Indian Penal Code;

and the Magistrate who issued such order may proceed to carry it

into execution at the expense of such person, and may realize such expenses either by the sale of any building, goods or other property removed by his order, or by the distress and sale of the moveable property of the person aforesaid.

No suit shall lie in respect of anything necessarily or reasonably done to give effect to such order.

Procedure where jury finds Magistrate's order to be reasonable.

CCCXII. If in a case referred to a jury, the jury find that the order of the Magistrate is reasonable and proper, the Magistrate who issued the order shall give notice of such finding to the person to whom the order was issued, and shall add to such notice an order to obey the order first mentioned within a time to be fixed in the notice and an intimation that, in case of disobedience, he will be liable to the penalty provided by Section 188 of the Indian Penal Code.

If such latter order is not obeyed, the Magistrate may proceed as in Section 311.

Procedure where person ordered satisfies Magistrate that the order is not reasonable.

CCCXIII. If the person to whom the order of the Magistrate is issued appears and shows cause against it, so as to satisfy the Magistrate who issued it that it is not reasonable and proper, no further proceedings shall be taken in the case.

Injunction pending enquiry by jury.

CCCXIV. If, pending the enquiry by a jury, the Magistrate that issued the order considers that immediate measures are necessary to be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person mentioned in that behalf in Section 308 as is required to obviate or prevent such danger or injury.

In default of such person forthwith taking all necessary measures ordered to be taken by such injunction, the Magistrate may himself use or cause to be used such means as may be necessary to obviate such danger or to prevent such injury.

No suit shall lie in respect of anything necessarily or reasonably done for that purpose.

Local Government may order trial before Court of Session to be by jury

CCCXXII. The local Government may order that the trial of all offences or of any particular class of offences before any Court of Session shall be by jury in any district, and such local Government may from time to time revoke or alter such order.

The local Government may also, if it see fit, direct that, in any district or in any class of offences, the jurors shall, before the trial, be sworn in such form as the Government may prescribe.

Orders passed under this Section shall be published in the Government Gazette, and in such other manner as the local Government shall from time to time direct.

Revision of list.

CCCXXXI. The Collector or other officer as aforesaid shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not qualified in his judgment to serve as a juror or as an assessor, or who may avail himself of the exemption from service given by Section 335, and insert the name of any person omitted from the list whom he deems qualified for such service.

A copy of the revised list shall be signed by the Collector or other officer as aforesaid and sent to the Court of Session.

Any order of the Collector or other officer as aforesaid in preparing and revising the list shall be final.

Refusal to plead, or plea of claim.

CCCLXIII. If the accused person refuses to plead, or claims to be tried, the Court shall proceed to choose jurors or select assessors and to try the case.

Dying declaration.

CCCLXXI. The declaration of a deceased person, whether it be reduced to writing or not, and whether it be made in the presence of the accused person or not, may be given in evidence if the deceased person at the time of making such declaration believed himself to be in danger of approaching death, although he entertained at the time of making it hopes of recovery.

Defence.

CCCLXXII. When the case for the prosecution has been brought to a close, the Court may, if it considers that there are no grounds for proceeding with the trial, record a judgment of acquittal; otherwise the accused person shall be called upon to enter his defence, and to produce his evidence.

When accused person may be examined.

* CCCLXXIII. The Court, at the close of the case for the prosecution, and at the close of the evidence on behalf of the accused person (if he produces any evidence,) may put any questions to the accused person which it may think proper.

It shall be in the option of the accused person to answer such questions, and after such questions shall have been answered by the accused person, he or his counsel or agent may address the Court on the subject thereof.

The provisions of Section 204 shall apply to examinations under this Section.

When accused may address the Court.

CCCLXXIV. The accused person or his counsel or agent may, at his option address the Court at the close of the case for the prosecution, or at the close of any evidence that may be adduced on his behalf.

Withdrawal of remaining charges on conviction on one of several charges.

CCCLXXIX A.—In trials before a Court of Session, when more charges than one are preferred against the same person, and when a conviction has been had on one or more of them, the Government pleader or other officer conducting the prosecution may with the consent of the Court withdraw, or the Court of its own accord may suspend, the enquiry into the remaining charge or charges.

Rules of evidence.

CCCLXXX A.—The rules contained in Sections 367, 368, 369, 370, and 371, shall be applicable to all trials and enquiries before Criminal Courts.

Execution of sentence of Court in cases referred to the High Court for confirmation of sentence.

CCCLXXXIII. In cases referred by the Court of Session for the confirmation of a sentence by the High Court, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the

* It was held a most serious irregularity, under Section 373 of the Criminal Procedure Code, for which this Section is substituted, to put questions to the prisoner before the close of the case with a view to supply the evidence for the prosecution. 3, B R, C C, p. 53.

order under the seal of the High Court, and attested with his official signature, to the Court of Session.

Such Court shall, if the sentence be confirmed, immediately issue a warrant to the officer in charge of the jail in which the prisoner is confined to cause the sentence or order to be carried into execution; or in the case of any other order, shall cause such order to be carried into effect.

Court of Session to send copy of finding and sentence to District Magistrate.

CCCLXXXIV. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence to the Magistrate of the District in which the trial was held.

If the accused person is sentenced to imprisonment, the Court shall forthwith forward him with a warrant for the execution of the sentence to the officer in charge of the jail of the district in which the trial was held.

The warrant shall state the offence of which the accused person has been convicted and the period during which he is to be imprisoned and the nature of the imprisonment.

Procedure after sentence passed by Court inferior to Session Court.

In cases tried by any Court inferior to a Court of Session, the Court passing the sentence shall forthwith forward the accused person with a similar warrant for the execution of the sentence to the officer in charge of the jail of the district in which the trial was held.

Execution of sentence under Section 383 or 384.

CCCLXXXV. Upon the receipt of a warrant under Section 383 or 384, the officer in charge of the jail shall cause the sentence to be executed, and shall return the warrant when the sentence has been fully executed, to the Court from which it issued, with an endorsement under his signature, certifying the manner in which the sentence has been executed.

Lunatic prisoners to be visited.

CCCXCV. *Clause* 1.—When any person is confined under the provisions of Section 390 or Section 394, the officer in charge of the jail, if such person is confined in a jail, or the visitors of the Lunatic Asylums or any two of them, if he is confined in a Lunatic Asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every three months by such officer in charge of the jail or by two of such visitors as aforesaid, who shall make a special report to the local Government as to his state of mind.

Procedure where lunatic prisoner is certified to be capable of making his defence.

Clause 2.—If such person is confined under Section 390, and such officer or visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court of Session, as the case may be, at such time as such Magistrate or Court of Session shall appoint; and such Magistrate or Court shall deal with such person under the provisions of Section 392, and the certificate of such officer or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic confined under Section 394 is declared capable of being discharged.

Clause 3.—If such person is confined under the provisions of Section 394, and such officer or visitors as aforesaid shall certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the local Government shall thereupon either order his discharge or

order him to be transferred to a public Lunatic Asylum if he has not been already sent to such an Asylum, and shall appoint a commission consisting of a judicial officer not below the grade of a Sessions Judge, and two medical officers whereof the chief medical officer attached to the Lunatic Asylum shall be one. The said commission shall make formal enquiry into the state of mind of such person, taking such evidence as shall be necessary; and if they consider that he can be set at liberty without danger to himself or to any other person, shall be discharged.

Proceedings of a case revised by High Court to be certified to Court in which conviction was had.

CCCCVI. Whenever a case is revised by the High Court under this chapter, it shall certify its decision or order to the Court in which the conviction was had or by which the order was passed; or, if the conviction or order was passed by a Magistrate other than the Magistrate of the District, to the Magistrate of the District.

Proviso.

The Court or Magistrate to which the High Court certifies its order shall thereupon make such orders as are conformable to the decision of the High Court, and if necessary the record shall be amended in accordance therewith:

Proviso.

Provided that, in any case revised by the High Court under this chapter, the High Court shall not reverse the verdict of the jury, or, except as provided in this chapter, alter or reverse the sentence or order of the Court below.

Appeals from Magistrates.

CCCCIX. Any person convicted on a trial held by the Magistrate of the District or other officer exercising the powers of a Magistrate, or required by such Magistrate or other officer under Section 295 or Section 296 to give security for good behaviour, may appeal to the Court of Session of the District.

Appeals from orders under Chapter X.

CCCCXIII. Any person convicted by any Civil, Criminal or Revenue Court under Chapter X of this Act may appeal to the Court to which decrees or orders made in such Court are ordinarily appealable, subject to the rules provided in Sections 416, 417, 418, 419, 420, 421, and 422.

Petitions of appeal under this Section, if presented to any District Court, must be presented within thirty days from the day on which the sentence or order appealed against is passed.

Petitions of appeal to the High Court must be presented within sixty days calculated as last aforesaid.

An appeal may be admitted after the time herein provided on sufficient cause shown.

Period for presenting petitions of appeal.

CCCCXV. Petitions of appeal to any Appellate Court, except the High Court, must be presented within thirty days from the day on which the sentence or order appealed against is passed.

Petitions of appeal to the High Court must be presented within sixty days calculated as above.

An appeal may be admitted after the time herein provided on sufficient cause shown.

Appellate Court may suspend sentence pending appeal, and release defendant on bail.

CCCCXXI. In any case in which an appeal is allowed, the Appellate Court may, pending the appeal, order that the sentence be suspended, and if the appellant be in confinement for an offence which is bailable, may

order that he be released on bail; and the High Court may exercise the same authority in cases coming before it as a Court of revision.

Appellate Court may direct further enquiry, &c.

CCCCXXII. In any case in which an appeal has been allowed, the Appellate Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the appellant to be necessary, may direct such enquiry to be made and additional evidence to be taken

The result of the further enquiry and the additional evidence shall be certified to the Appellate Court, and the Appellate Court shall thereupon proceed to dispose of the appeal in the manner prescribed by Section 419.

Unless the Appellate Court otherwise direct, the presence of the appellant may be dispensed with when the further enquiry is made or evidence taken.

The provisions of Chapter XII relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined under this Section.

Court of appeal how to proceed in case of conviction by a Court not having jurisdiction.

* CCCCXXVII. When any Court has convicted a person of an offence not triable by such Court, the Appellate Court may annul the conviction and sentence of such Court, and direct the trial of the case by a Court of competent jurisdiction.

Right of accused to be defended by counsel.

CCCCXXXII. Every person charged before any Criminal Court with an offence may of right be defended by any barrister or attorney of a High Court, or by any pleader duly qualified under the provisions of Act XX. of 1865, or any other law in force for the time being relating to pleaders: Provided that any such person may, with the permission of the Court, (but not otherwise) employ any other person not being a barrister, attorney, or pleader to assist him in his defence.

When Court of Session may order commitment of person discharged by Magistrate.

CCCCXXXV. In the case of offences specified in the seventh column of the Schedule to this Act annexed as triable by the Court of Session only or by the Court of Session or Magistrate of the District, the Court of Session may order the commitment of any accused person who may have been discharged by any Magistrate. In the case of such offences the Court of Session may order an enquiry into any complaint which any Magistrate may have dismissed without enquiry.

In the case of such offences the Magistrate of the District shall have like powers where the Magistrate who has discharged the accused person or dismissed the complaint without enquiry, is a Subordinate Magistrate.

If the Court of Session consider that any person convicted by a Magistrate has committed an offence not triable by such Magistrate, it may annul the conviction and sentence and direct the commitment of the accused person for trial before itself.

Expenses of prosecutors and witnesses.

CCCCXXXVIII. Subject to any rules that may be passed by the local Government with the previous sanction of the Governor-General of India in Council, the Criminal

* This Section applies only to a Court acting in appeal from a subordinate Court.—Reg. *v.* Amba, and Reg. *v.* Naboji, 4, B. R, C. C. P., pp. 1 and 2.

Courts may order payment on the part of Government of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

Copy of sentence or order to be furnished on application.

CCCCXL. A copy of the final sentence or order passed by any Criminal Court together with the reasons for passing or making the same shall be furnished without delay on the application of any party to the case in which such sentence or order was passed.

Such copy shall be made at the expense of the person applying for it, unless he is in confinement under the sentence or order and is desirous of appealing against the same, or unless the Court for any special reason sees fit to grant such copy free of expense.

Extension of Code of Criminal Procedure.

CCCCXLV A.—When under the provisions of Section 445 this Act has been or shall be extended to any part of the territories not subject to the General Regulations of Bengal, Madras, or Bombay, the Governor-General in Council or the local Government of such territory may invest the chief officer charged with the executive administration of a district in criminal matters, by whatever designation such officer is called, with power to try all offences not punishable with death, and under the provisions of the said Code to pass sentence of imprisonment of either description for a term not exceeding seven years, including such solitary confinement as is authorized by law, or fine, or both.

Procedure in cases triable by the Court of Session.

CCCCXLV B.—Such chief officer shall try as a Court of Session offences which, under the Schedule hereto annexed, are triable by a Court of Session only, and in such trials shall be guided by the rules contained in Chapter XXV of this Code.

Appeals.

CCCCXLV C.—Any person convicted on a trial held by any officer invested with the power described in Section 445 A may appeal to the High Court, and no appeal against such conviction shall lie to the Court of Session.

When High Court consists of one Judge.

CCCCXLV D.—When the High Court of reference, revision or appeal in any part of the territories to which this Code has been or shall be extended as aforesaid, consists of a single Judge, he shall have all the powers of two or more Judges of the Sádr Court under Sections 398 and 401.

SCHEDULE.

Explanatory Notes.—1*st.*—The entries in the 2nd and 6th columns of the Schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding Sections of the Indian Penal Code, or even as abstracts of those Sections, but merely as references to the subject of the Section, the number of which is given in the 1st column.

2*nd.*—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of Sections 212 and 213 of this Code.

3*rd.*—Offences may be tried by a Court superior to the Court specifically mentioned in column 7. For example, a Court of Session may try an offence entered in column 7 as triable by a Magistrate.

4*th.*—The words "Magistrate of the District," as used in column 7, shall include any officer exercising the powers of a Magistrate.

5*th.*—The words "any Magistrate," as used in column 7, shall include any Subordinate Magistrate of the 1st or 2nd Class.

6*th.*—In the territories in British India to which the General Regulations of Bengal, Madras, and Bombay do not extend, the powers given by this Act shall be exercised by such officers as the local Government of those territories respectively shall appoint.

7*th.*—The last part of this schedule headed "Offences against other Laws" shall not be taken to alter or affect any special provision contained in such laws, regarding the procedure to be followed in the case of offences made punishable thereby.

CHAPTER V.—OF ABETMENT.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	Ditto ...	Ditto ..	Ditto ..	Ditto	Ditto.

CHAPTER V—OF ABETMENT—(*Continued*).

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
111	When one act is abetted and a different act is done, subject to the proviso.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto ...	Ditto ...	Ditto ...	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto ...	Not bailable ...	Imprisonment of either description for 7 years and fine.	Ditto.
	If an act which causes harm be done in consequence of the abetment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to ¼ part of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.

	If the abettor or the person abetted be a public servant, whose duty it is to prevent the offence.	Ditto ...	Ditto ..	Ditto ...	Imprisonment extending to ½ of the longest term, and of any description provided for the offence, or fine, or both.	By the Court by which the offence abetted is triable.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto ...	Ditto ..	Not bailable ...	Imprisonment of either description for 7 years, and fine.	Ditto.
	If the offence be not committed.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.
119	A public servant concealing a design to commit an offence, which it is his duty to prevent, if the offence be committed.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to ½ of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto ...	Ditto ...	Not bailable ...	Imprisonment of either description for 10 years.	Ditto.
	If the offence be not committed.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to ¼ part of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto ..	Ditto ..	Ditto ...	Imprisonment extending to ¼ part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.
	If not committed.	Ditto ..	Ditto ...	Ditto ...	Imprisonment extending to ⅛ part of the longest term, and of the description provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

1	2	3	4	5	3	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
121	Waging or attempting to wage war, or abetting the waging of war against the Queen.	Shall not arrest without warrant.	Warrant ..	Not bailable ..	Death, or transportation for life, and forfeiture of property.	Court of Session.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto ...	Ditto ..	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
124	Assaulting Governor-General, Governor, &c, with intent to compel or restrain the exercise of any lawful power.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 7 years, and fine.	Ditto.
125	Waging war against any Asiatic power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto ...	Ditto ...	Ditto ...	Transportation for life and fine, or imprisonment of either description for 7 years, and fine, or fine.	Ditto.
126	Committing depredation on the territories of any power in alliance or at peace with the Queen.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine, and forfeiture of certain property.	Ditto.
127	Receiving property taken by war or depredation mentioned in Sections 125 and 126.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto ...	Ditto ...	Bailable ...	Simple imprisonment for 3 years, and fine.	Court of Session or Magistrate of the District.
130	Aiding escape of, rescuing, or harbouring such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto ...	Ditto ..	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier, or sailor from his allegiance or duty.	May arrest without warrant.	Warrant ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
132	Abetment of mutiny if mutiny is committed in consequence thereof.	Ditto ..	Ditto ..	Ditto ...	Death or transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto
133	Abetment of an assault by an officer, soldier, or sailor on his superior officer when in the execution of his office.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
134	Abetment of such assault, if the assault is committed.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
135	Abetment of the desertion of an officer, soldier, or sailor.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.
136	Harbouring such an officer, soldier, or sailor who has deserted.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER VII—OFFENCES RELATING TO THE ARMY AND NAVY—(*Continued*).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof.	Shall not arrest without warrant.	Summons ...	Bailable ...	Fine of 500 rupees ...	Magistrate of the District.
138	Abetment of act of insubordination by an officer, soldier, or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto ...	Summons ..	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

143	Being a member of an unlawful assembly.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

147	Rioting.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
148	Rioting, armed with a deadly weapon.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence.	By the Court by which the offence is triable.
150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto ...	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto ...	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
	If not committe	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto ..	Ditto ...	Fine of 1,000 rupees ...	Magistrate of the District, or Subordinate Magistrate of 1st Class.
155	Person for whose benefit, or on whose behalf, a riot takes place not using all lawful means to prevent it.	Ditto ...	Ditto ...	Ditto ...	Fine ...	Ditto.

CHAPTER VIII—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*(Continued).*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Shall not arrest without warrant.	Summons ...	Bailable ...	Fine ...	Magistrate of the District, or Subordinate Magistrate of 1st Class.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
158	Being hired to take part in an unlawful assembly or riot.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
	Or to go armed.	Ditto ...	Warrant .	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray.	Shall not arrest without warrant.	Summons ..	Ditto ..	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Any Magistrate.

CHAPTER IX—OFFENCES BY, OR RELATING TO, PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons ..	Bailable .	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.

162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the District.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
168	Public servant unlawfully engaging in trade.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the District.
169	Public servant unlawfully buying or bidding for property.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.
170	Personating a public servant.	May arrest without warrant . .	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto ...	Summons ...	Ditto ..	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If summons or notice require attendance in person, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
	If summons, &c., require attendance in person, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If the order require personal attendance, &c., in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.

175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto ...	Ditto ..	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of Chapter X. of this Code, or if not committed in a Court, the Magistrate of the District, or Subordinate Magistrate of 1st Class.
	If the document is required to be produced in or delivered to a Court of Justice.	Ditto ..	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto ..	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate of the District.
	If the notice or information required respects the commission of an offence, &c.	Ditto .	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
177	Knowingly furnishing false information to a public servant.	Ditto ..	Ditto ..	Ditto ...	Ditto	Magistrate of the District, or Subordinate Magistrate of 1st Class.
	If the information required respects the commission of an offence, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto .	Ditto ...	Ditto ..	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subjected to the provisions of Chapter X. of this Code, or if not committed in a Court, the Magistrate of the District, or Subordinate Magistrate of 1st Class.

CHAPTER X—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*(Continued).*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
179	Being legally bound to state the truth, and refusing to answer questions.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of Chapter X. of this Code, or if not committed in a Court, the Magistrate of the District or Subordinate Magistrate of 1st Class.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.

185	Bidding by a person under a legal incapacity to purchase it for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Ditto.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health or safety, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*(Continued).*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
	Giving or fabricating false evidence in any other case.	Shall not arrest without warrant.	Warrant ..	Bailable ...	Imprisonment of either description for 3 years, and fine.	Court of Session.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto ...	Ditto ..	Not bailable .	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
	If innocent person be thereby convicted and executed.	Ditto ...	Ditto ...	Ditto ...	Death, or as above .	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto ...	Ditto ...	Ditto ..	The same as for the offence ...	Ditto.
196	Using in a judicial proceeding evidence known to be false or fabricated.	Ditto ...	Ditto ...	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	Ditto.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto ...	Ditto ...	Bailable ...	The same as for giving false evidence.	Ditto.
198	Using as a true certificate one known to be false in a material point.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
199	False statement made in any declaration which is by law received as evidence.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.

200	Using as true any such declaration known to be false.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto ..	Ditto .	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
	If punishable with transportation, or imprisonment for 10 years.	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
	If punishable with less than 10 years' imprisonment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for ¼ of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.
202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto ..	Summons ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the District.
203	Giving false information respecting an offence committed.	Ditto ...	Warrant ..	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*(Continued)*.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
208	Fraudulently suffering a decree to pass for a sum not due. or suffering decree to be executed after after it has been satisfied.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.
209	False claim in a Court of Justice.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, and fine.	Ditto.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
211	False charge of offence made, with intent to injure.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years, or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
212	Harbouring an offender if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Ditto.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.

	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for ¼ of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.
213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for ¼ of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for ¼ of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*(Continued).*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
	If with imprisonment for 1 year and not for 10 years.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment for ¼ of the longest term, and of the description provided for the offence, or fine, or both.	By the Magistrate of the District, or by the Court by which the offence is triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict or decision which he knows to be contrary to law.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Comitment for trial or confinement by a person having authority who knows that he is acting contrary to law.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, with or without fine.	Court of Session or Magistrate of the District.

	If with imprisonment for less than 10 years.	Ditto	Ditto	Ditto	Imprisonment of either description for 2 years, with or without fine.	Magistrate of the District or Subordinate Magistrate of 1st Class
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death.	Ditto	Ditto	Not bailable	Transportation for life, or imprisonment of either description for 14 years, with or without fine	Court of Session.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years	Ditto	Ditto	Bailable	Imprisonment of either description for 3 years, or fine, or both	Court of Session or Magistrate of the District
223	Escape from confinement negligently suffered by a public servant	Ditto	Summons	Ditto	Simple imprisonment for 2 years, or fine or both	Magistrate of the District, or Subordinate Magistrate of 1st Class.
224	Resistance or obstruction by a person to his lawful apprehension	May arrest without warrant	Warrant	Ditto	Imprisonment of either description for 2 years, or fine, or both	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody	Ditto	Ditto	Ditto	Ditto ...	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years	Ditto	Ditto	Not bailable	Imprisonment of either description for 3 years, and fine	Court of Session or Magistrate of the District
	If charged with a capital offence.	Ditto	Ditto	Ditto	Imprisonment of either description for 7 years, and fine.	Court of Session.
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards	Ditto	Ditto	Ditto	Ditto	Ditto

CHAPTER XI—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*(Continued).*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
	If under sentence of death.	May arrest without warrant.	Warrant ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
226	Unlawful return from transportation.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	Ditto.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons ..	Ditto ...	Punishment of original sentence, or if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto ...	Ditto ...	Bailable ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in Chapter X of this Code.
229	Personation of a juror or assessor.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

131	Counterfeiting or performing any part of the processs of counterfeiting Coin.	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
232	Counterfeiting or performing any part of the process of counterfeiting the Queen's Coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting Coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's Coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
235	Possession of instrument or material for the purpose of using the same for counterfeiting Coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
	If Queen's Coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
236	Abetting in India the counterfeiting out of British India of Coin.	Ditto ...	Ditto ...	Ditto ...	The punishment provided for abetting the counterfeiting of such Coin within British India.	Ditto.
237	Import or export of counterfeit Coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
238	Import or export of counterfeits of the Queen's Coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
239	Having any counterfeit Coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Ditto.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*(Continued).*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
240	The same with respect to the Queen's Coin.	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
241	Knowingly delivering to another any counterfeit Coin as genuine which when first possessed, the deliverer did not know to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of ten times the value of the Coin counterfeited, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
242	Possession of counterfeit Coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
243	Possession of Queen's Coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
244	Persons employed in a Mint causing Coin to be of a different weight or composition from that fixed by law.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
245	Unlawfully taking from a Mint any coining instrument.	Ditto ...	Ditto ..	Ditto ...	Ditto ...	Ditto.
246	Fraudulently diminishing the weight or altering the composition of any Coin.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
247	Fraudulently diminishing the weight or altering the composition of the Queen's Coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.

248	Altering appearance of any Coin with intent that it shall pass as a Coin of a different description.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
249	Altering appearance of the Queen's Coin with intent that it shall pass as a Coin of a different description.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
250	Delivery to another of Coin possessed with the knowledge that it is altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Ditto.
251	Delivery of Queen's Coin possessed with the knowledge that it is altered.	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
252	Possession of altered Coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session or Magistrate of the District.
253	Possession of Queen's Coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Court of Session.
254	Delivery to another of Coin as genuine, which, when first possessed, the deliverer did not know to be altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of ten times the value of the Coin.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
255	Counterfeiting a Government stamp.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditio ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
257	Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
258	Sale of counterfeit Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XII—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—(*Continued*).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
259	Having possession of a counterfeit Government stamp.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.
262	Using a Government stamp known to have been before used.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
263	Erasure or mark denoting that stamp has been used.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the District.

CHAPTER XIII—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

265	Fraudulent use of false weight or measure.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto .	Ditto ...	Ditto ..	Ditto	Ditto.

CHAPTER XIV—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons ...	Bailable ..	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant. ...	Ditto ..	Ditto ..	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
272	Adulterating food or drink for man intended for sale so as to make the same noxious.	Ditto .	Ditto ...	Ditto .	Imprisonment of either description for 6 months. or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man knowing the same to be noxious.	Ditto ..	Ditto .	Ditto ...	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto .	Ditto .	Ditto	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto ..	Ditto ..	Ditto .	Ditto	Ditto.

CHAPTER XIV—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS—*(Continued).*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Ditto ..	Ditto ..	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health.	Shall not arrest without warrant.	Ditto ...	Ditto ..	Fine of 500 rupees.	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ..	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto ...	Ditto ...	Ditto ..	Ditto	Magistrate of the District, or Subordinate Magistrate of 1st Class.
281	Exhibition of a false light, mark, or buoy.	Ditto ...	Warrant ...	Ditto .	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto ...	Summons ..	Ditto ..	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees.	Ditto.
284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Any Magistrate.
286	So dealing with any explosive substance.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
287	So dealing with any machinery.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto	Magistrate of the District, or Subordinate Magistrate of 1st Class.
288	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life or of grievous hurt from such animal.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Any Magistrate.
290	Committing a public nuisance.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 200 rupees.	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
292	Sale, &c., of obscene books, &c.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 months, or fine, or both.	Ditto.
293	Having in possession obscene book, &c., for sale or exhibition.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
294	Obscene songs.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XV—OFFENCES RELATING TO RELIGION.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.
297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto ...	Ditto ..	Ditto ...	Ditto ...	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feelings.	Shall not arrest without warrant.	Ditto ...	Ditto ..	Ditto ..	Ditto.

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

302	Murder.	May arrest without warrant.	Warrant ...	Not bailable ...	Death, transportation for life, and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life.	Ditto ...	Ditto ...	Ditto ...	Death ...	Ditto.

304	Culpable homicide not amounting to murder if act by which the death is caused is done with intention of causing death, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, or fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto ...	Ditto	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	Ditto ...	Ditto ..	Ditto ...	Death, or transportation for life, or imprisonment for 10 years, and fine.	Ditto.
306	Abetting the commission of suicide.	Ditto .	Ditto .	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
307	Attempt to murder.	Ditto ..	Ditto ...	Ditto ...	Ditto ...	Ditto.
	If such act cause hurt to any person.	Ditto ..	Ditto ...	Ditto ...	Transportation for life, or as above.	Ditto.
308	Attempt to commit culpable homicide.	Ditto ..	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person.	Ditto ..	Ditto ..	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
309	Attempt to commit suicide.	Ditto ...	Ditto ..	Ditto ...	Simple imprisonment for 1 year, and fine.	Magistrate of the District.
311	Being a thug.	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, and fine.	Court of Session.

Of the causing of Miscarriage; of injuries to unborn children; of the exposure of infants; and of the concealment of births.

312	Causing miscarriage. ...	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—*(Continued).*

Of the causing of Miscarriage; of injuries to unborn children; of the exposure of infants; and of the concealment of births—(continued).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
	If the woman be quick with child.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
313	Causing miscarriage without woman's consent	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
	If act done without woman's consent.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
317	Exposure of a child under 12 years by parent or person having care of it with intention of wholly abandoning it.	May arrest without warrant.	Ditto ...	Bailable ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.

318	Concealment of birth by secret disposal of dead body.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Court of Session or Magistrate of the District.

Of Hurt.

323	Voluntarily causing hurt.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
325	Voluntarily causing grievous hurt.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
328	Administering stupefying drug with intent to cause hurt.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
329	Voluntarliy causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—(*Continued.*)

Of Hurt—(Continued).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not	Punishment under the Indian Penal Code.	By what Court triable.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	May arrest without warrant.	Warrant	Bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto ..	Ditto ..	Not bailable	Imprisonment of either description for 10 years, and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto ..	Ditto .	Not bailable .	Imprisonment of either description for 10 years, and fine.	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto ...	Summons ...	Bailable ..	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto ...	Ditto .	Ditto ...	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session, or Magistrate of the District.
336	Doing any act which endangers human life or the personal safety of others.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.

337	Causing hurt by an act which endangers human life, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

Of wrongful Restraint and wrongful Confinement.

341	Wrongfully restraining any person.	May arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
342	Wrongfully confining any person.	Ditto ..	Ditto ...	Ditto ..	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
343	Wrongfully confining for three or more days.	Ditto ..	Ditto .	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
344	Wrongfully confining for ten or more days.	Ditto ..	Ditto .	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto ..	Ditto ...	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secre	May arrest without warrant.	Ditto .	Ditto ...	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto ..	Ditto	Ditto ...	Imprisonment of either description for 3 years, and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confesion or information, or of compelling restorsation of property, &c.	Ditto ..	Ditto ..	Ditto .	Ditto	Ditto.

CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—(*Continued*).

Of Criminal Force and Assault.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
355	Assault or criminal force with intent to dishonour a person otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Ditto ...	Ditto	Ditto.
356	Assault of criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant ...	Not bailable ...	Ditto	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery, and forced Labour.

363	Kidnapping.	May arrest without warrant.	Warrant ..	Not bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session.
364	Kidnapping or abducting in order to murder.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
266	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto .	Ditto .	Ditto ...	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto .	Ditto ..	Ditto ..	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto ..	Ditto .	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto .	Bailable ..	Ditto	Ditto.
371	Habitual dealing in slaves.	May arrest without warrant.	Ditto .	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto ...	Ditto ..	Ditto ..	Ditto	Ditto.
374	Unlawful compulsory labour.	Ditto ...	Ditto ..	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—(*Continued*).

Of Rape.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
376	Rape.	May arrest without warrant.	Warrant ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

Of Unnatural Offences.

377	Unnatural offences.	May arrest without warrant.	Warrant ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session.

CHAPTER XVII—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft.	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Any Magistrate.
380	Theft in a building, tent, or vessel.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.

381	Theft by clerk or servant of property in possession of master or employer.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session, or Magistrate of the District.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years, and fine.	Court of Session.

Of Extortion.

384	Extortion.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
385	Putting or attempting to put in fear of injury, in order to commit exortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
	If the offence threatened be an unnatural offence.	Ditto ...	Ditto ...	Ditto ...	Transportation for life.	Ditto.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
	If the offence be an unnatural offience.	Ditto ...	Ditto ...	Ditto ...	Transportation for life.	Ditto.

BENGAL SECRETARIAT LIBRARY

CHAPTER XVII—OF OFFENCES AGAINST PROPERTY—*(Continued).*

Of Robbery and Dacoity.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
392	Robbery.	May arrest without warrant.	Warrant ...	Not bailable ..	Rigorous imprisonment for 10 years, and fine.	Court of Session, or Magistrate of the District.
	If committed on the highway between sunset and sunrise.	Ditto ..	Ditto ...	Ditto ...	Rigorous imprisonment for 14 years, and fine.	Ditto.
393	Attempt to commit robbery.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years, and fine.	Ditto.
394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
395	Dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
396	Murder in dacoity.	Ditto ...	Ditto ...	Ditto ...	Death, transportation for life, or rigorous imprisonment for 10 years, and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
399	Making preparation to commit dacoity.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years, and fine.	Ditto.

400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above.	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years, and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.

Of Criminal Misappropriation of Property.

403	Dishonest misappropriation of moveable property or converting it to one's own use.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
	If by clerk or person employed by deceased.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.

Of Criminal Breach of Trust.

406	Criminal breach of trust.	May arrest without warrant.	Warrant ...	Not bailable ..	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
407	Criminal each of trust by a carrier, wharfinger, &c.	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session, or Magistrate of the District.
408	Criminal breach of trust by a clerk or servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XVII—OFFENCES AGAINST PROPERTY—*(Continued).*

Of Criminal Breach of Trust—(continued).

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
409	Criminal breach of trust by public servant, or by banker, merchant, or agent, &c.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Court of Session, or Magistrate of the District.
	Of the receiving of Stolen Property.					
411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto ...	Ditto ...	Ditto ...	Transportation for life or rigorous imprisonment for 10 years, and fine.	Court of Session.
413	Habitually dealing in stolen property.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.

Of Cheating.

417	Cheating.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
419	Cheating by personation.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto,
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Court of Session, or Magistrate of the District.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPER XVII—OFFENCES AGAINST PROPERTY—*(Continued).*

Of Mischief.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
426	Mischief.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
428	Mischief by killing, poisoning, maiming, or rendering useless, any animal of the value of 10 rupees or upwards.	Ditto ...	Ditto ...	Ditto ..	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	May arrest without warrant.	Ditto ...	Ditto ..	Ditto	Ditto.
431	Mischief by injury to public road, bridge, river, or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

432	Mischief by causing inundation or obstruction to public drainage attended with damage.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-houss or sea-mark, or by exhibiting false lights.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
434	Mischief by destroying or moving, &c., a land mark fixed by public authority.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
435	Mischief by fire or explosive substance with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant.	Ditto ..	Ditto ..	Imprisonment of either description for 7 years, and fine.	Court of Session.
436	Mischief by fire or explosive substance with intent to destroy a house, &c.	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
438	The mischief described in the last Section when committed by fire or any explosive substance.	Ditto ...	Ditto .	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, &c.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 10 years, and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Ditto.

Of Criminal Trespass.

*447	Criminal trespass.	May arrest without warrant.	Summons	Bailable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER XVII—OFFENCES AGAINST PROPERTY—*(Continued)*.

Of Criminal Trespass—(continued).

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
448	House-trespass.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year or fine of 1,000 rupees, or both.	Any Magistrate.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto ...	Ditto ...	Not bailable ...	Transportation for life, or rigorous imprisonment for 10 years, and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
	If the offence is theft.	Ditto ...	Ditto ...	Not bailable ...	Imprisonment of either description for 7 years, and fine.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
453	Lurking house-trespass or house-breaking.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for years, 2 and fine.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
	If the offence is theft.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, and fine.	Ditto.
455	Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session.
456	Lurking house-trespass or house-breaking by night.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, and fine.	Ditto.
	If the offence is theft.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 14 years, and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night after preparation made for causing hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

CHAPTER XVII—OFFENCES AGAINST PROPERTY.—(*Continued*).

Of Criminal Trespass—(continued).

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.

CHAPTER XVIII—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

465	Forgery.	Shall not arrest without warrant.	Warrant ..	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Court of Session.
466	Forgery of a record of a Court of Justice or of a Register of Births, &c., kept by a public servant.	Ditto ..	Ditto ...	Not bailable ..	Imprisonment of either description for 7 years, and fine.	Ditto.
467	Forgery of a valuable security, will, or authority to make or transfer any public security, or to receive any money, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years, and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto ...	Ditto ..	Ditto	Ditto.
468	Forgery for the purpose of cheating.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.

469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto ...	Ditto ...	Ditto ...	Punishment for forgery ...	Ditto.
	When the forged document is a promissory note of the Government of India.	May arrest without warrant ...	Ditto ...	Not bailable ...	Ditto	Ditto.
472	Making or counterfeiting a seal, plate. &c., with intent to commit a forgery punishable under Section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under Section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If the document is a valuable security or will ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above.	Court of Session.
475	Counterfeiting a device or mark used for authenticating documents described in Section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in Section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years, and fine.	Ditto.

CHAPTER XVIII—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE, &c.,—(*Continued*).

Of Trade and Property-Marks.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 3 years, and fine.	Court of Session, or Magistrate of the District.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class.

488	Making use of any such false mark.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
489	Removing, destroying or defacing any property-mark with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.

CHAPTER XIX—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate of the District, or Subordinate Magistrate of 1st Class.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind, or disease, and voluntarily omitting to do so.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX—OFFENCES RELATING TO MARRIAGE.

493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
494	Marrying again during the life-time of a husband or wife.	Ditto ...	Ditto ..	Bailable ...	Imprisonment of either description for 7 years, and fine.	Ditto.

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE—*(Continued).*

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Imprisonment of either description for 10 years, and fine.	Court of Session.
496	A person with fraudulent intention going through the ceremony of being married knowing that he is not thereby lawfully married.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 7 years, and fine.	Ditto.
497	Adultery.	Ditto ...	Ditto ..	Bailable ...	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the District.

CHAPTER XXI—OF DEFAMATION.

500	Defamation.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Simple imprisonment for 2 years, or fine, or both.	Court of Session or Magistrate of the District.
501	Printing or engraving matter knowing it to be defamatory.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	... ...	Ditto.

CHAPTER XXII—OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace	Shall uot arrest without warrant.	Warrant ...	Bailable ..	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Ditto ...	Ditto ...	Not bailable ...	Ditto	Magistrate of the District.
506	Criminal intimidation.	Ditto ...	Ditto ...	Bailable ...	Ditto	Magistrate of tbe District, or Subordinate Magistrate of 1st Class.
	If threat be to cause death or grievous hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, or Magistrate of the District.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the District.
509	Uttering any word or making any gesture intended to insult the modesty of a woman.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Ditto.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 24 hours, or fina of 10 rupees, or both.	Any Magistrate.

CHAPTER XXIII—OF ATTEMPTS TO COMMIT OFFENCES.

1	2	3	4	5	3	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term and of the description provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

If punishable with death, transportation, or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant ...	Not bailable ...	.....	Court of Session.
If punishable with imprisonment for more than three and less than seven years.	Ditto ...	Ditto ...	Ditto ...	.....	Court of Session, or Magistrate of the District.
If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons ...	Bailable ...	.....	Magistrate of the District, or Subordinate Magistrate of 1st Class.
If punishable with fine only or with imprisonment for less than one year.	Ditto ...	Ditto ...	Ditto ...	.....	Any Magistrate.

ACT No. X. OF 1869.

1. Repeal of enactments establishing Funds.
2. Transfer to Government of sums at credit of Funds.

An Act to abolish the Police Superannuation Funds.

Preamble.

Whereas a Fund called "The Police Superannuation Fund" has been formed under Act XXIV. of 1859 *(for the better regulation of the Police within the territories subject to the Presidency of Fort St. George)*, Section 12; and whereas similar Funds have been formed under Act V. of 1861 *(for the regulation of Police)*, Section 11, and under the Act of the Governor of Bombay in Council, VII. of 1867 *(for the regulation of the District Police in the Presidency of Bombay)*, Section 12; and whereas it is expedient to abolish the said Funds and to transfer to the Government of India the securities and monies at the credit of such Funds respectively; It is hereby enacted as follows:

Repeal of enactments establishing Funds.

I. The said Sections shall be repealed from such day as the Governor-General of India in Council shall, by notification in the *Gazette of India*, direct in this behalf.

Transfer to Government of sums at credit of Funds.

II. All securities and sums of money which, on the said day, shall be standing at the credit of the said Funds respectively, shall be transferred and paid to the Government of India for the general purposes of Government.

ACT No. XI. OF 1869.

1. Short Title. Extent of Act.
2. Repealed.
3. Duties on frontiers of foreign European settlements.
4. Duties on frontiers of Native States.
5. Applications of provisions as to duties and goods.

An Act to make better provision for the collection of Land Customs on certain foreign frontiers of the Presidencies of Fort St. George and Bombay.

Short Title.
Extent of Act.

I. This Act may be called the "Land Customs (Madras and Bombay) Act, 1869," and extends only to the territories for the time being respectively subject to the Governor of Fort St. George in Council and the Governor of Bombay in Council.

II. *Repealed by the Repealing Act XIV.*, 1870.

Duties on frontiers of foreign European settlements.

III. Duties of Customs shall be levied on goods passing by land into, or out of, foreign European settlements situate on the lines of coast within the limits of the said territories at the rates prescribed in the Schedules to Act XVII. of 1867 *(to amend the law relating to Customs Duties)*, or any other law for the time being in force relating to the duties of customs on goods imported and exported by sea.

Duties on frontiers of Native States.

IV. The local Government may declare, by notification in the official Gazette, that the territory of any Native Chief not subject to the jurisdiction of the Courts and civil authorities of the territories under such Government, shall be deemed for the purposes of this Act to be foreign territory; and may declare goods passing into or out of such territory liable to the duties

specified in the Schedule to the said Act XVII. of 1867, or any other law for the time being in force relating to the duties of customs on goods imported and exported by sea; and goods so passing shall thereupon be liable to the duties aforesaid.

Application of provisions as to duties and goods.

V. So far as regards the territories subject to the Governor of Fort St. George in Council, the unrepealed provisions of the said Act VI. of 1844, and so far as regards the territories subject to the Governor of Bombay in Council, the unrepealed provisions of the said Act XXIX. of 1857, relating to the levy of duties and to dutiable goods shall, *mutatis mutandis*, apply to duties levied and goods liable to duty under or by virtue of this Act.

ACT No. XIII. OF 1869.

1 Power to try Native together with European British subject. Proviso.
2 Suspension of Sections 198 and 364 of Code of Criminal Procedure.
3. Power to award costs on petitions, &c.
4. Penalty for making false statements in support of petitions, &c.

An Act further to amend the Procedure of the High Court of Judicature for the North-Western Provinces.

Preamble.

Whereas it is expedient to amend the Procedure of the High Court of Judicature of the North-Western Provinces of the Presidency of Fort William; It is hereby enacted as follows:

Power to try Native together with European British subject.

I. In any case before the said High Court in which an European British subject is charged jointly with a person not being an European British subject, a jury may be empannelled for the trial of both persons so charged, and they may be tried together, and the procedure on the trial shall be the same as it would have been had the European British subject been tried separately.

In any case before the said High Court in which an European British subject is charged jointly with a person not being an European British subject, and the former, before the jury is empannelled, requires the majority of the jurors to consist of Europeans or Americans, or both Europeans and Americans, the latter person shall be tried together with the former, and the procedure on the trial shall be the same as it would have been had the former been tried separately:

Proviso.

Provided that, in any such case, where the person not an European British subject so requires before the said jury is empannelled, he shall be tried separately by a jury of which at least one-half shall consist of persons not being Europeans or Americans.

Suspension of Sections 198 and 364 of Code of Criminal Procedure.

II. The operation of Sections 198 and 364 of the Code of Criminal Procedure is hereby suspended in the said High Court, and in any case coming before the Court in the exercise of its ordinary or its extraordinary original criminal jurisdiction, the Judges of such Court shall take down the evidence or the substance thereof in such manner as the Court shall, by any general rule, from time to time direct.

Power to award costs on petitions, &c.

III. Whenever any petition, application or motion is made in any matter coming before the said Court in the exercise of its civil, criminal or other jurisdiction, the Court

shall have power to award and apportion costs in any manner it may think fit.

Penalty for making false statements in support of petitions, &c.

IV. Whenever the Court shall require the statement in support of any such petition, application or motion to be verified by a declaration in writing, the person making such verification shall, if any such statement is false, and if he either knows or believes it to be false, or does not believe it to be true, be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

THE BOMBAY COURTS' ACT.

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An Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in the Presidency of Bombay.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to the District and other subordinate Civil Courts in the Presidency of Bombay; It is hereby enacted as follows:

PART I.—*Preliminary.*

Short Title. Extent of Act.

I. This Act may be called "The Bombay Civil Courts' Act, 1869," and extends only to the territories (other than Sind) under the Government of the Governor of Bombay in Council in which the Code of Civil Procedure is now in force. But the Governor of Bombay in Council may, by notification in the Government Gazette, extend this Act to any other of the territories under such Government in which the said Code is not in force, or to Sind.

II. *Repealed by the Repealing Act XIV.*, 1870.

PART II.—*Districts and Sudder Stations.*

Alteration and creation of Districts.

III. The Governor of Bombay in Council may from time to time, by notification in the Government Gazette, alter the limits of existing Zillas (which shall hereafter be called Districts) and create new Districts for the purposes of this Act.

Position of Sudder Station.

IV. The Governor of Bombay in Council may also from time to time, by notification in the Government Gazette, alter the position of the Sudder station in any District, and fix the position of the Sudder station in any new District.

PART III.—*District Courts.*

District Judges.

V. There shall be in each District a District Court presided over by a Judge to be called the District Judge. He shall be appointed by the Governor of Bombay in Council, by whose authority only he shall be liable to be suspended or removed from his appointment.

First District Judges.

The present Zilla Judges shall be the first District Judges under this Act.

Situation of District Court.

VI. The District Judge shall ordinarily hold the District Court at the Sudder station in his District, but may, with the previous sanction of the High Court, hold it elsewhere within the District.

Original jurisdiction of District Judge.

VII. The District Court shall be the principal Court of original civil jurisdiction in the District, within the meaning of the Code of Civil Procedure.

VIII. Except as provided in Sections 16, 17 and 26, the District

His appellate jurisdiction.

Court shall be the Court of Appeal from all decrees and orders passed by the Subordinate Courts from which an appeal lies under any law for the time being in force.

Control and inspection of Courts.

IX. The District Judge shall have general control over all the Civil Courts and their establishments within the District, and it shall be his duty to inspect, or to cause one of his Assistants to inspect, the proceedings of all the Courts subordinate to him, and to give such directions with respect to matters not provided for by law as he may think necessary. The District Judge shall also refer to the High Court all such matters as appear to him to require that a rule of that Court should be made thereon.

Writs and orders.

X. The District Judge shall obey all writs, orders, or processes issued to him by the High Court, and shall make such returns or reports thereto under his signature and the seal of the Court as the exigencies of the case require. He shall further furnish such reports and returns and copies of proceedings as may be called for by the High Court or the Governor of Bombay in Council.

Reports and returns.

Seal of District Judge.

XI. The District Judge shall use a circular seal two inches in diameter, which shall bear thereon the Royal Arms with the following inscription in English and the principal language of the District:—"District Court of————."

PART IV.—*Joint Judges.*

Power to appoint Joint Judges.

XII. The Governor of Bombay in Council may, with the previous sanction of the Governor-General of India in Council, appoint in any District a Joint Judge who shall be invested with co-extensive powers and a concurrent jurisdiction with the District Judge, except that he shall not keep a file of civil suits and shall transact such civil business only as he may receive from the District Judge, or as may have been referred to the Joint Judge by order of the High Court.

When the appointment of a Joint Judge shall have been sanctioned by the Governor-General of India in Council, the Governor of Bombay in Council may, so long as such sanction continues in force, appoint a successor to such Joint Judge in case his office becomes vacant, or transfer such Joint Judge from one District to another; and in such other District the Joint Judge so transferred shall have the same powers as he had in the former District.

Enactments applying to District Judge to apply to Joint Judge.

Joint Judge's seal.

XIII. All Regulations and Acts now or hereafter in force and applying to a District Judge shall be deemed to apply also to the Joint Judge; and the seal of the Joint Judge shall be the same as is used by the District Judge.

PART V.—*Assistant Judges.*

Power to appoint Assistant Judges.

XIV. The Governor of Bombay in Council, under the general control of the Governor-General of India in Council, may appoint one or more Assistants to the District

Judge, and may suspend or remove from his appointment any Assistant so appointed.

The present Assistant Judges shall be the first Assistant Judges under this Act.

Situation of Assistant Judge's Court.

XV. An Assistant Judge shall ordinarily hold his Court at the same place as the District Judge, but he may hold his Court elsewhere within the District, whenever the District Judge shall, with the previous sanction of the High Court, direct him so to do.

Original jurisdiction of Assistant Judge.

XVI. The District Judge may refer to any Assistant Judge subordinate to him original suits of which the subject-matter does not amount to 10,000 Rupees in amount or value, and miscellaneous applications not being of the nature of appeals. The Assistant Judge shall have jurisdiction to try such suits and to dispose of such applications. Where the Assistant Judge's decrees and orders in such cases are appealable, the appeal shall lie to the District Judge or the High Court according as the amount or value of the subject-matter does not exceed or exceeds 5,000 Rupees.

The Assistant Judge shall, when directed by the District Judge so to do, also take evidence on applications for certificates under Bombay Regulation VIII. of 1827 *(to provide for the formal recognition of heirs, executors and administrators, and for the appointment of administrators and managers of property by the Courts)*, Act XXVII. of 1860 *(for facilitating the collection of debts on successions and for the security of parties paying debts to the representatives of deceased persons)*, and Act XX. of 1864 *(for making better provision for the care of the persons and property of minors in the Presidency of Bombay)*, and shall forward it with his opinion thereon for the final orders of the District Judge.

Appellate jurisdiction of Assistant Judge.

XVII. The Governor of Bombay in Council may, by notification in the Government Gazette, empower any Assistant Judge to try such appeals from the decrees and orders of the subordinate Courts as would lie to the District Judge and as may be referred by him to the Assistant Judge.

Decrees and orders passed under this Section by an Assistant Judge shall have the same force and shall be subject to the same rules as regards procedure and appeals as decrees and orders passed by the District Judge.

Continuance of Assistant Judge's appellate jurisdiction.

XVIII. A person filling the office of Assistant Judge, on whom the power of hearing appeals has once been conferred under Section 17, shall continue to have this power so long and so often as he may fill the office of Assistant Judge, without reference to the District in which he may be employed; provided that the Governor of Bombay in Council may, by notification in the Government Gazette, at any time withdraw such power.

Power to invest Assistant Judge with powers of District Judge.

XIX. The Governor of Bombay in Council may, by notification in the Government Gazette, invest an Assistant Judge with all or any of the powers of a District Judge within a particular part of a District, and may, by like notification, from time to time determine and alter the limits of such part.

The jurisdiction of an Assistant Judge so invested shall *pro tanto* exclude the jurisdiction of the District Judge from within the said limits.

Every Assistant Judge so invested shall ordinarily hold his Court at such place within the local limits of his jurisdiction as may be determined by the Governor of Bombay in Council, and may, with the previous sanction of the High Court, hold it at any other place within such limits.

Assistant Judge to use seal of District Judge.

XX. Every Assistant Judge shall use the seal of the District Judge to whom he is Assistant.

Part VI.—*Subordinate Judges.*

Number of Subordinate Civil Courts.

XXI. There shall be in each District so many Civil Courts subordinate to the District Court as the Governor of Bombay in Council, acting under the general control of the Governor-General of India in Council, shall from time to time direct.

Appointment of Subordinate Judges.

XXII. The Judges of such subordinate Courts shall be appointed by the Governor of Bombay in Council, and shall be called Subordinate Judges.

No person shall be appointed a Subordinate Judge unless he be a subject of the Queen who has practised five years as an Advocate of a High Court in India or as a Vakeel in the High Court of Judicature in Bombay, or who has qualified for the duties of a Subordinate Judge according to such tests as may for the time being be prescribed by such High Court, or who has taken the degree of Bachelor of Laws in the University of Bombay.

The tests so prescribed by the High Court shall be notified in the Government Gazette.

Situation of Subordinate Courts.

XXIII. The Subordinate Judges shall hold their Courts at such place or places as the Governor of Bombay in Council may from time to time appoint within the local limits of their respective jurisdictions. Wherever more than one such place is appointed, the District Judge shall, subject to the control of the High Court, fix the days on which the Subordinate Judge shall hold his Court at each of such places, and the Subordinate Judge shall cause such days to be duly notified throughout the local limits of his jurisdiction.

The same person may be the Judge of more than one Subordinate Court; and in such cases the District Judge shall, subject to the control of the High Court, prescribe rules for regulating the time during which the Subordinate Judge shall sit in each Court.

The Judge of any Subordinate Court may, with the previous sanction of the High Court, be deputed by the District Judge to the Court of another Subordinate Judge for the purpose of assisting him in the disposal of the suits on his file.

Classes of Subordinate Judges.

XXIV. The Subordinate Judges shall be of two classes.

Jurisdiction of Subordinate Judge of first class.

The jurisdiction of a Subordinate Judge of the first class extends to all original suits and proceeding of a civil nature.

The jurisdiction of a Subordinate Judge of the second class extends

Jurisdiction of Subordinate Judge of second class.

to all original suits and proceedings of a civil nature wherein the subject-matter does not exceed in amount or value 5,000 Rupees.

Special jurisdiction of Subordinate Judge of first class.

XXV. A Subordinate Judge of the first class, in addition to his ordinary jurisdiction, shall exercise a special jurisdiction in respect of such suits and proceedings of a civil nature wherein the subject-matter exceeds 5,000 Rupees in amount or value as may arise within the local jurisdictions of the Courts in the District presided over by Subordinate Judges of the second class.

In Districts to which more than one Subordinate Judge of the first class have been appointed, the District Judge, subject to the orders of the High Court, shall assign to each the local limits within which his said special jurisdiction is to be exercised.

Appeals from his decision.

XXVI. In all suits decided by a Subordinate Judge of the first class in the exercise of his ordinary and special original jurisdiction of which the amount or value of the subject-matter exceeds 5,000 Rupees, the appeal from his decision shall be direct to the High Court.

Appellate jurisdiction of Subordinate Judge of first class.

XXVII. The Governor of Bombay in Council may invest any Subordinate Judge of the first class with power to hear appeals from such decrees and orders of Subordinate Courts as may be referred to him by the Judge of the District.

Decrees and orders so passed in appeal by a Subordinate Judge of the first class shall have the same force as if passed by a District Judge.

The Governor of Bombay in Council may, whenever he thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested.

Power to invest Subordinate Judges with Small Cause powers.

XXVIII. The Governor of Bombay in Council may invest, within such local limits as he shall from time to time appoint, any Subordinate Judge of the first class with the jurisdiction of a Judge of a Court of Small Causes, for the trial of suits cognizable by such Courts up to the amount of 500 Rupees, and any Subordinate Judge of the second class with the same jurisdiction up to the amount of 50 Rupees.

The Governor of Bombay in Council may, whenever he thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested.

Seal of Subordinate Judge.

XXIX. Each Subordinate Judge shall use a seal one inch and a half in diameter, bearing the Royal Crown with the following inscription in English and the principal language of the District :—" Subordinate Judge of————."

First Subordinate Judges of first class.

XXX. The present Principal Sadr Amíns shall be the first Subordinate Judges of the first class, and (subject to any alteration of the limits of their ordinary local jurisdiction which may from time to time be made by the Governor of Bombay in Council) shall severally exercise the jurisdiction of Subordinate Judges of the first class under this Act, within the local limits within which, immediately before the passing of this Act, they respectively exercised the jurisdiction of Principal Sadr Amíns.

First Subordinate Judges of second class.

The present Sadr Amíns and Moonsifs shall be the first Subordinate Judges of the second class, and (subject to any alteration of the limits of their local jurisdiction which may from time to time be made by the Governor of Bombay in Council)

shall severally exercise the jurisdiction of Subordinate Judges of the second class under this Act, within the local limits within which, immediately before the passing of this Act, they respectively exercised the jurisdiction of Moonsifs.

Pending proceedings.

XXXI. Every Court of a Subordinate Judge under this Act shall have the same jurisdiction over all proceedings pending in the Court for which it shall have been substituted as the Principal Sadr Amíns, Sadr Amín, or Moonsif (as the case may be) of such Court would have had if this Act had not been passed.

Reference of Government suits.

XXXII. No Subordinate Judge shall receive or register a suit in which Government or any officer of Government in his official capacity is a defendant, but he shall refer the party presenting the plaint in such suit to the District Judge, in whose Court alone such suit shall be instituted.

Removal or suspension.

Commission of enquiry into alleged misconduct.

XXXIII. Whenever the High Court is of opinion that there are good grounds for making a formal and public enquiry into the truth of any imputation of misconduct by any Subordinate Judge, the High Court may appoint a Commissioner or Commissioners for the purpose of holding such an enquiry, and on the receipt of his or their report may order that the Subordinate Judge be removed or suspended from office, or reduced to a lower class.

The provisions of Act XXXVII. of 1850 *(for regulating enquiries into the behaviour of public servants (*shall apply to enquiries under this Section, the powers conferred by that Act on the Government being exercised by the High Court.

Suspension of Subordinate Judges by High Court or District Judge.

XXXIV. The High Court may suspend any Subordinate Judge from office pending the result of an enquiry into his behaviour under this Section.

Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Subordinate Judge under his control. But whenever the District Judge suspends any such Subordinate Judge, he shall forthwith report the case for the orders of the High Court.

Saving of power of Government to suspend or dismiss.

Nothing in this Section or in Section 33 shall be held to interfere with the right of Government to suspend, or remove from office, any Subordinate Judge at their discretion.

PART VII.—*Temporary vacancies.*

Temporary vacancy of office of District Judge.

XXXV. In the event of the death of the District Judge, or of his being prevented from performing his duties by illness or other casualty, or of his absence from his District on leave, the first in rank of the Assistant Judges in the District, or in the absence from the District of an Assistant Judge the first in rank of the Subordinate Judges, shall assume charge of the District Court without interruption to his ordinary jurisdiction, and while so in charge shall perform the duties of a District Judge with respect to the filing of suits and appeals, receiving pleadings, execution of processes, return of writs and the like, and shall be designated Assistant Judge or Subordinate Judge, as the case may be, in charge of the Dis-

trict, and shall continue in such charge until the office of District Judge may be resumed or assumed by an officer duly appointed thereto.

Delegation of powers of District Judge.

XXXVI. Any District Judge leaving the Sudder station and proceeding on duty to any place within his District, may delegate to an Assistant Judge, or in the absence of an Assistant Judge to a Subordinate Judge at the Sudder station, the power of performing such of the duties enumerated in Section 35 as may be emergent; and such officer shall be designated Assistant or Subordinate Judge, as the case may be, in charge of the Sudder station.

Temporary vacancy of office of Subordinate Judge.

XXXVII. In the event of the death, suspension or temporary absence of any Subordinate Judge, the District Judge may empower the Judge of any Subordinate Court of the same District to perform the duties of the Judge of the vacated Subordinate Court, either at the place of such Court or of his own Court; but in every such case the Registers and Records of the two Courts shall be kept distinct.

PART VIII.—*Ministerial Officers.*

Appointment, &c., of ministerial officers.

XXXVIII. All ministeral officers of the Civil Courts in each District shall be appointed, and may be fined, suspended or dismissed by the District Judge, subject to such rules as the High Court may from time to time prescribe:

Provided that the Judge of every Subordinate Court may, subject to the like rules, appoint the ministerial officers of the Court, whose salaries do not exceed Rs. 10 per mensem, and may by order fine, suspend or dismiss any ministerial officer of such Court who is guilty of any misconduct or neglect in the performance of the duty of his office. Every such order shall be subject to appeal to the District Judge; and the rules for the time being applicable to appeal to the Court of Session from orders of the Criminal Courts subordinate thereto, shall apply to all appeals under this Section.

Nothing in this Section shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

Duties of ministerial officers.

XXXIX. The duties of the said ministerial officers shall be regulated by such rules as the High Court may from time to time prescribe.

Power to appoint Clerks of the Courts.

XL. The Governor of Bombay in Council may, under the general control of the Governor-General of India in Council, appoint to any Civil Court under this Act a Clerk of the Court, who, in addition to such duties as may from time to time be prescribed by the High Court, may receive and register plaints, and shall refer such as he may consider should be refused for the orders of the Judge of the Court, and may sign all processes, and authenticate copies of papers.

PART IX.—*Miscellaneous.*

Rules for keeping proceedings.

XLI. The proceedings of each Civil Court shall be kept and recorded according to such rules as the High Court may from time to time prescribe. The High Court shall also lay down rules under which copies of papers may be granted.

XLII. The High Court shall from time to time, with the sanction of the Governor of Bombay in Council, prescribe and regulate the fees to be taken for any process issued by any Court the constitution of which is declared by this Act, or by any officer of such Court.

Fees for process.

Tables of the fees so prescribed shall be published in the Government Gazette.

XLIII. The District and Subordinate Courts shall sit from day to day, except on Sundays, New Year's Day, Good Friday, Christmas Day, and Her Majesty's Birth Day, and such other days as may be sanctioned for each or every District by the High Court.

Sittings of Courts.

The High Court may also permit the Civil Courts under its control to adjourn for a period or periods not exceeding in the whole six weeks in each year.

Vacation.

SCHEDULE.

Repealed by the Repealing Act XIV., 1870.

THE PRISONERS' TESTIMONY ACT, 1869.

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ACT No. XV. OF 1869.

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6 Order to be transmitted through Magistrate of the District in which the person is confined
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16 Process served to be transmitted at prisoner's request.
17 Deposit of costs
18 Power to make rules.
19 Publication of rules.
20 Power to declare who shall be deemed officer in charge of jail.

An Act to provide facilities for obtaining the evidence and appearance of prisoners and for service of process upon them.

Preamble. Whereas it is expedient to provide facilities for obtaining the evidence and appearance in Court of prisoners and for service of process upon them; It is hereby enacted as follows:

PART I.

PRELIMINARY.

Short Title. I. This Act may be called "The Prisoners' Testimony Act, 1869."

Presidency Small Cause Courts. Police Magistrates. II. For the purposes of this Act, the Courts of Small Causes established within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras, and Bombay, and the Courts of persons exercising the powers of a Magistrate of Police within the same limits, shall be deemed to be respectively subordinate to the said High Courts.

PART II.

BRINGING UP PRISONERS.

Criminal Courts may make orders under Act. III. Any Criminal Court not inferior to the Court of a Subordinate Magistrate of the first class may in its discretion, if it appear that the testimony of any person confined in any jail situate within the local limits of its appellate jurisdiction, if the Criminal Court be a High Court, or, if it be not a High

Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter depending in such Criminal Court, or if a charge of an offence against such person is made or pending, make an order in the form in Schedule A or Schedule B (as the case may be) to this Act annexed, directed to the officer in charge of the said jail.

Civil Courts may make orders under Act.

IV. Any Civil Court may in its discretion, if it appear that the testimony of any person confined in any jail situate within the local limits of its appellate jurisdiction, if the Civil Court be a High Court, or, if it be not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter depending in such Civil Court, make an order in the form in the said Schedule A, directed to the officer in charge of the said jail.

Court to countersign orders.

V. When such order is made in any civil matter pending in a Court subordinate to the Court of the District Judge or in any Court of Small Causes situate outside the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal, Madras, and Bombay, it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until the same shall have been submitted to, and countersigned by such Judge, or the District Judge within the local limits of whose jurisdiction such Court of Small Causes is situate.

Statement of facts necessitating order.

Every order so submitted shall be accompanied by a statement under the hand of the Judge of the facts which in his opinion render such order necessary, and the District Judge may after considering such statement, decline to countersign the order.

Order to be transmitted through Magistrate of the District in which the person is confined.

VI. When any person for whose attendance an order as hereinbefore mentioned shall be made is confined in any District other than that in which the Court making or countersigning the order is situate, the order shall be sent by the Court by which it shall have been made or countersigned to the Magistrate of the District or division of a District in which the said person is confined, and such Magistrate shall cause it to be delivered to the officer in charge of the jail in which such person is confined.

Order by High Court for removal of person confined more than 100 miles from place where his evidence is required.

VII. In any case in which a person is confined in a jail within the local limits of the ordinary original civil jurisdiction of any of the High Courts of Judicature at Fort William, Madras, and Bombay, or in a jail more than one hundred miles distant from the place where any Court, subordinate to a High Court, in which his evidence is required, is held, the Judge or presiding officer of the Court in which the evidence is so required shall, if he think it expedient that such person should be removed under this Act for the purpose of giving evidence in such Court, and if the said jail is situate within the local limits of the appellate jurisdiction of the High Court to which such Court is subordinate, apply in writing to the same High Court, and such High Court may, if it think fit, make an order in the form in the said Schedule A, directed to the officer in charge of the said jail.

The High Court making the order shall send it to the Magistrate of the District or division of a District in which the person named therein

is confined, and such Magistrate shall cause the order to be delivered to the officer in charge of the jail in which such person is confined.

For the purposes of this Section and Sections 3 and 4, the Chief Commissioner of British Burmah shall be demeed to be a High Court: the Court of a Recorder appointed under Act XXI. of 1863 shall be deemed to be subordinate to the said Chief Commissioner; and every jail situate in British Burmah shall be deemed to be situate within the local limits of the said Chief Commissioner's appellate jurisdiction.

Persons confined beyond limits of appellate jurisdiction of High Court.

VIII. In any case in which a person is confined within a jail situate beyond the local limits of the appellate jurisdiction of a High Court, any Judge of such Court may, if he think it expedient that such person should be removed under this Act, for the purpose of giving evidence in any criminal matter in such Court or in any Court subordinate thereto, apply in writing to the local Government within the territories subject to which the said jail is situate; and such Government may, if it think fit, direct that such person shall be so removed, subject to such rules regulating the escort of such prisoners as the Governor-General of India in Council may from time to time prescribe.

To obtain the removal of a person confined in a jail situate beyond the territories for the time being under the administration of the Chief Commissioner of British Burmah for the purpose of giving evidence in any criminal matter in the Court of a Recorder appointed under the said Act XXI. of 1863, such Recorder shall have the power conferred on a Judge of a High Court by the former part of this Section, and the other provisions of such part shall, *mutatis mutandis*, apply.

Prisoner to be brought up.

IX. Upon delivery of any order under this Act to the officer in charge of the jail in which the person named therein is confined, such officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in such Court at the time in such order mentioned; and shall cause him to be detained in custody in or near the Court until he shall have been examined or until the Judge or presiding officer of such Court shall authorize him to be taken back to the jail in which he was confined.

Power to Government to exempt certain prisoners from operation of Act.

*X. The Governor-General of India in Council or the local Government may, from time to time, by notification in the official Gazette, direct that any person or any class of persons shall not be removed from the jail in which he or they may be confined; and thereupon and so long as such notification remains in force, the provisions of this Act, other than those contained in Sections 12, 13 and 14, shall not apply to such person or class of persons.

* For the rules applicable to the Central Provinces, see G. O No. 136, in *Gazette of India*, 11th September, 1869, p. 261; and for the rules applicable to the Punjab, see G. O. No. 1389, in *Gazette of India*, 25th September, 1869, p. 300; and for the rules applicable to the Province of Coorg, see G. O. No. 1391, in the same *Gazette of India*, p. 301, and for those applicable to the North-Western Provinces of Bengal, see G. O. No. 1539, in *Gazette of India*, 16th October, 1869, p. 386; and for those applicable to Oudh, see G. O. No. 1725, in *Gazette of India*, 4th December, 1869, p. 490; and for those applicable to the Hyderabad Assigned Districts, see G. O. No. 1814 in *Gazette of India*, 18th December, 1869, p. 530; and for the rules applicable to British Burmah, see G.O. No. 554, in *Gazette of India*, 26th March, 1870, part 1, p. 202.

When jailor may disobey orders.

XI. When any person named in any order made under Section 3, Section 4, or Section 7 appears to be from sickness or other infirmity unfit to be removed, the officer in charge of the jail in which he is confined shall apply to the Magistrate of the District or division of a District in which such jail is situate, and if such Magistrate shall by writing under his hand declare himself to be of opinion that such person is from infirmity unfit to be removed;

or when any person named in any such order is under committal for trial;

or under a remand pending trial or pending a preliminary investigation;

or when any such person is in custody for a period which would expire before the expiration of the time required for removing him under this Act and for taking him back to the jail in which he is confined;

then and in every such case the officer in charge of the jail shall abstain from obeying such order, and shall send to the Court from which the order has been issued, a statement of his reason for not obeying the same:

Provided that the said officer shall not so abstain when the order has been made under Section 3,

and the person named in the order is confined under committal for trial, or under a remand pending trial or pending a preliminary investigation, and does not appear to be from sickness or other infirmity unfit to be removed,

and the place where his evidence is required is not more than five miles distant from the jail in which he is confined.

PART III.

COMMISSIONS.

Commission for examination of prisoners

XII. Whenever it shall appear to any Civil Court that the evidence of a person confined in any jail situate within the local limits of the appellate jurisdiction of such Court, if it be a High Court, or if it be not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, who for any of the causes mentioned in Section 10 or Section 11 cannot be brought up before it, is material in any matter depending before such Court,

and whenever it shall appear to any such Court that the evidence of a person confined in any jail so situate and more than ten miles distant from the place at which such Court is held, is material in any such matter,

and in any case in which the District Judge shall under Section 5 have declined to countersign the order for removal,

the Court may, if it think fit, issue a commission under the provisions of the Code of Civil Procedure for the examination of such person in the jail in which he is confined.

Commission for examination of prisoners

XIII. Whenever it shall appear to any High Court that the evidence of a person confined in a jail situate beyond the local limits of its appellate jurisdiction is mate-

beyond limits of appellate jurisdiction of High Court.

rial in any civil matter depending before such Court, or before any Court subordinate thereto, the High Court may, if it think fit, issue a commission under the provisions of the Code of Civil Procedure for the examination of such person in the jail in which he is confined.

Commission how to be directed.

XIV. Every commission issued under Section 12 or Section 13 shall be directed to the District Court of the District wherein the jail in which such person is confined is situate, and such Court shall commit the execution of the commission to the officer in charge of such jail, or to such other person as the Court thinks fit.

PART IV.

SERVICE OF PROCESS ON PRISONERS.

Process how served on prisoners.

XV. When any process directed to any person confined in any jail is issued from any Court, the same may be served by exhibiting to the officer in charge of such jail or prison the original of such process, and by depositing with him a copy thereof.

Process served to be transmitted at prisoner's request.

XVI. Every officer in charge of a jail upon whom any such service as is mentioned in Section 15 shall be made, shall, as soon as may be, cause the copy or the process so deposited with him to be shown and explained to the prisoner to whom it is directed, and shall thereupon endorse upon such process a certificate signed by him that the prisoner to whom the process is directed is a prisoner in the jail under his charge, and that he has received a copy thereof.

Such certificate shall be sufficient *primâ facie* evidence of the service of such process; and if the prisoner requests that the said copy be sent to any other person, and provides the cost of sending it, the said officer shall cause the same to be so sent through the Post Office by registered letter.

PART V.

MISCELLANEOUS.

Deposit of costs.

XVII. No order in any civil matter shall be made by a Court under any of the provisions hereinbefore contained until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court:

Provided that, if upon any application for such order it appear to the Court to which the application is made that the applicant has not sufficient means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by Government from any person ordered by the Court to pay the same, as if it were costs of suit recoverable under the Code of Civil Procedure.

Powers to make rules.

* XVIII. It shall be lawful for the local Government, and in cases arising under Section 8 for the Governor-General of India in Council, to make rules consistent with this Act

* See Note to Section 10.

(1) for regulating the escort of prisoners to and from the Court in which their presence is required;

(2) for regulating the amount to be allowed for the costs and charges of such escort; and

(3) for the guidance of officers in all other matters connected with the enforcement of this Act;

and from time to time to alter and add to the rules so made.

Publication of rules.

XIX. All such rules, alterations and additions shall be published in the official Gazette, and shall from the date of such publication, be deemed to have the force of law.

Power to declare who shall be deemed officer in charge of jail.

XX. The local Government may also declare in each case what officer shall, for the purposes of this Act, be deemed to be 'the officer in charge of the jail.'

SCHEDULE A.

Court of————————

To the officer in charge of the————————(*state name of jail*)

You are hereby required to have the body of————————, now a prisoner in————————under safe and sure conduct before the————————at ————on the————day of————next by———— of the clock in forenoon of the same day, there to give testimony in a cause now pending before [*or* in a certain charge or prosecution now pending before————————against ————————*or as the case may be*]————and after the said———— ————————————————shall then and there have given his testimony before the said————————————or the said———— ——shall dispense with the further attendance, cause him to be conveyed under safe and sure conduct back to the said jail.

————day of————

A. B.

(Countersigned) *C. D.*

SCHEDULE B.

Court of————————

To the officer in charge of the————————(*state name of jail*)

You are hereby required to have the body of————————, now a prisoner in————————under safe and sure conduct before the————————at ————on the————day of————next by————of the clock in the forenoon of the same day, there to answer a charge now pending before———— and, after such charge shall have been disposed of, or the said————shall dispense with his further attendance, cause him to be conveyed under safe and sure conduct back to the said jail.

————day of————

A. B.

(Countersigned) *C. D.*

ACT No. XVI. OF 1869.

1. Short Title.
2. Abolition of Civil Courts' jurisdiction as to immoveables in the Dvárs.
3. Jurisdiction by whom exercisable.
4. Pending suits and appeals.
5. Validation of rules.
6. Power to make additional rules.

An Act to exclude the ordinary Civil Courts from the cognizance of suits relating to lands in the Bhután Dvárs, and for other purposes.

Preamble.

Whereas it is expedient to exclude the ordinary Civil Courts from the cognizance of suits relating to immoveable property, revenue and rent in the territory ceded by the

Government of Bhután to the British Government in the year 1866, and commonly known as the Bhután Dvárs; and whereas certain rules relating to immoveable property, revenue and rent in the said territory, and contained in the Schedule to this Act, have been made by the Lieutenant-Governor of Bengal: and it is expedient that such rules should have the force of law; It is hereby enacted as follows:

Short Title.

I. This Act may be called "The Bhután Dvárs Act, 1869."

Abolition of Civil Courts' jurisdiction as to immoveables in the Dvárs.

II. The jurisdiction which the ordinary Civil Courts of Judicature have hitherto had and exercised in respect of suits (whether instituted before or after the passing of this Act,) and other matters connected with immoveable property, revenue and rent in the said territory shall cease.

Jurisdiction by whom exerciseable.

III. Such jurisdiction shall be exercised by such officers and within such local limits as the Lieutenant-Governor of Bengal shall from time to time appoint in this behalf.

Pending suits and appeals.

IV. All original suits and appeals relating to immoveable property, revenue or rent in the said territory, now pending in the said Civil Courts, shall be transferred to and disposed of by such of the officers appointed under Section 3 as the said Lieutenant-Governor shall direct in this behalf.

All suits and appeals so transferred shall be disposed of by the officer to whom they shall have been so transferred as if they had been originally instituted in or presented to his Court.

And all appeals hereafter presented from decrees or orders in original suits relating to such property, revenue or rent heretofore instituted shall (subject to the rules of limitation which would have been applicable thereto if this Act had not been passed) lie to such of the said officers as the said Lieutenant-Governor shall direct in this behalf.

Validation of rules.

V. The rules contained in the Schedule to this Act shall be deemed to have the force of law.

Power to make additional rules.

VI. The said Lieutenant-Governor may from time to time make additional rules consistent with this Act and the Schedule hereto for the guidance of officers in matters connected with the enforcement of this Act and the rules contained in the said Schedule.

Such additional rules shall be published in the *Calcutta Gazette*, and shall thereupon have the force of law.

SCHEDULE.

Rules relating to immoveable property, rent and revenue, in the Bhután Dvárs.

I. At a reasonable time, before any officer appointed under Section 3 of the Bhután Dvárs Act, 1869, shall commence his enquiries in any Revenue Survey Circuit or other convenient tract of country, a notice shall be published in such tract calling on all interested in the suits and matters mentioned in Section 2 of the said Act, to come forward and advance their claims and protect their interests before the said officer.

II. In the investigation of such suits and matters, the said officer shall be guided by the provisions of Regulation VII. of 1822, and shall exercise all the powers conferred upon a Collector making a settlement of land revenue by that Regulation and all other Regulations and Acts amending the same, in addition to the powers vested in him by these rules.

III. The said officer shall make a record in such form as the Lieutenant-Governor may direct, of all rights, interests and other matters which he is empowered by these rules to investigate, ascertain, and determine.

IV. The said officer shall ascertain the position as to rights and interests connected with the soil which each person *bonâ fide* occupied before the state of things was affected by the Bhután war, and, subject to due regard for considerations of public policy, confirm him in that position: he shall take cognizance of, and decide, all disputes, conflicting claims, and doubtful questions which then existed: Provided that he shall not take cognizance of any right or interest which, being capable of exercise or assertion within twelve years before the date on which the Bhután Dvárs were transferred to the British Government, had not been exercised or asserted during the period.

V. As soon as the record of rights for any tract as mentioned in Rule III is completed, the said officer shall cause it to be published in the tract, and a second copy shall be open for inspection at his office, of which fact due notice shall be given.

VI. Within one month of such publication, any person who is dissatisfied with any entry in the record, which has not been adjudicated upon by the said officer, may present a petition to such officer, who shall thereupon proceed to try the questions in dispute.

VII. Any person aggrieved by any decision or order of the said officer may appeal by petition to the Commissioner of the Division, or to any other officer specially appointed by the Lieutenant-Governor to be a Commissioner in that behalf: Provided that such appeal be presented within three months of the date of the decision or order appealed against, unless sufficient cause for longer delay be shown to the satisfaction of the Commissioner.

VIII. The said officer may, within one month of the passing of any decision or order by him, admit to review any such decision or order, and eventually amend, vary, or correct the same: Provided that no appeal have been preferred against such order or decision to the appellate authority as defined in Rule VII.

IX. The appellate authority may, within one month of the passing of any decision or order by such appellate authority on appeal, admit to review any such decision or order.

X. No appeal shall lie as of right to any authority against any order passed by the appellate authority under these rules, but, notwithstanding anything to the contrary in these rules, the Lieutenant-Governor of Bengal may, if he think fit, alter, vary, or annul any decision or order which may have been passed under these rules: Provided that an application in that behalf shall have been made before or within one month after the issue of the notification of confirmation of the record under Rule XI.

XI. When the record of any circuit or other tract, as mentioned in Rule III, shall have been finally revised and amended in accordance with all orders passed by the said officer or the Commissioner of the Division under these rules, the record shall be confirmed by an order of the Commissioner of the Division to be published in the *Calcutta Gazette.*

XII. From the date of the publication of such confirmation, the said record shall not be varied or altered otherwise than by an order of the Lieutenant-Governor under Rule X, and such record shall be conclusive evidence as to any right, interest, or other matter which may be entered on it in accordance with the provisions of these rules.

Act No. XVII. of 1869.

An Act to shorten the time for landing Cargo.

Preamble.

Whereas the Consolidated Customs' Act (VI. of 1863), Section 52, provides that if the importer, owner or consignee of any goods except as therein excepted, or his agent shall not land such goods within fifteen working days after the entry of the vessel importing the same, or within such further period as the bill of lading of such vessel shall specify, the master or commander of the vessel, or the officers of customs on his application, may then carry such goods to the Custom House; and whereas it is expedient to shorten the period of fifteeen working days so limited; It is hereby enacted as follows:

New Sections substituted for Sections 52, 53 and 54 of Act VI. of 1863.

I. Sections 52, 53, and 54 of the said Act are hereby repealed, and in lieu thereof the following shall be substituted :—

Procedure in respect of goods not landed within time allowed

"LII. If the importer, owner or consignee of any goods (except such as shall have been declared by the master or commander as not to be landed), or the agent of such importer, owner or consignee, shall not land such goods within such number of working days, not exceeding fifteen, after the entry of the vessel importing the same as the local Government shall from time to time appoint by notification in the official Gazette, or within such further period as the bill of lading of such vessel shall specify,

the master or commander of the vessel, or the officers of customs on his application, may then carry such goods to the Custom House.

The officer in charge of the Custom House shall thereupon take charge of and grant receipts for such goods ;

and if notice in writing shall have been given that the goods are to remain subject to a lien for freight, primage, general average or other charges of a stated amount, he shall hold such goods until the said charges shall be paid.

And in case of goods being landed in time, with exception of only a small quantity.

"LIII. If the cargo of any vessel, with the exception of a small quantity only of goods, shall have been landed within the period so appointed, or such further period as the bill of lading shall specify, the officers of customs may, on the application of the master or commander of such vessel, direct that such remaining goods shall forthwith be carried in like manner to the custom house.

Effect of not discharging cargo in any earlier period specified in the bill of lading.

"LIV. If any period earlier than the number of working days so appointed is specified in the bill of lading of such vessel for the discharge of her cargo or any part thereof, and if the importer, owner or consignee of such cargo, or his agent, shall not land the same within such specified period, the master or commander of such vessel, or the officers of customs on his application, may then carry such goods to the Custom House.

The officer in charge of the Custom House shall thereupon take charge of and grant receipts for such goods ;

and if notice in writing shall have been given that the goods are to remain subject to a lien for freight, primage, general average or other charges of a stated amount, he shall hold such goods until the said charges shall be paid."

This Act to be read with Act VI. of 1863.

II. This Act shall be read with, and taken as part of, The Consolidated Customs' Act.

THE GENERAL STAMP ACT, 1869.

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* The powers conferred on a local Government by this Act have been delegated to the Chief Commissioner of Coorg.—G. O. No. 1832, in *Gazette of India*, 18th December, 1869, p. 531.

In determining what provision of the stamp laws is applicable to a particular instrument, regard must be had to the real nature of it and not to the title. M. G. Peudse *v.* R. S. Malse, 3, B. R., A. C. J, p. 100.

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34. Consideration to be stated. Mortgage-money to be deemed purchase-money. Penalty for not stating consideration.
35. Penalty on attorneys, &c., not inserting true consideration.
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An Act for imposing Stamp Duties on certain instruments.

CHAPTER I.

PRELIMINARY.

Short Title.

I. This Act may be called 'The General Stamp Act, 1869.'

Extent of Act.

It extends to the whole of British India.

Commencement of Act.

And it shall come into force on the 1st day of January, 1870.

II. *Repealed by the Repealing Act XIV.*, 1870.

Interpretation Clause.

III. In this Act and the first and second schedules hereto annexed, unless there be something repugnant in the subject or context—

(1.) 'Affidavit' includes every declaration in writing, on oath or affirmation, made before a person authorized by law to administer an oath:

(2.) 'Award' includes every decision in writing by an arbitrator or umpire:

(3.) 'Bill of Exchange' includes a hundí and every other instrument (except a cheque) whereby a person is ordered to pay to another a specified sum of money:

(4.) 'Bill of Lading' includes every instrument signed by the owner of a ship or his agent, acknowledging the receipt of goods therein described, and undertaking to deliver them at a port and to a person therein mentioned or indicated:

(5.) 'Bond' includes every instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be:

(6.) 'Bottomry-bond' includes every instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to prosecute her voyage:

(7.) 'Charter-party' includes every instrument (except an agreement for the hire of a tug steamer) whereby a ship or some principal part thereof is let for the specified purpose of the charterer:

(8.) 'Cheque' includes every instrument whereby a bank, banker or person acting as a banker, is ordered to pay on demand a specified sum of money:

(9.) 'Collector' means, within the limits of the towns of Calcutta, Madras and Bombay, the Collector of Calcutta, Madras or Bombay, and without those limits, the Collector of a District, and includes Deputy Commissioner or any officer having jurisdiction equivalent to that of a Collector of a District.

(10.) 'Composition-deed' includes every instrument executed by a debtor, whereby the debtor conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors.

(11.) 'Conveyance' means any instrument (except a transfer of a share in a Company or Association, a mortgage-deed, a settlement, a lease, an instrument of reconveyance of mortgaged property, a composition-deed, an instrument of gift, or an instrument of exchange or partition-deed, where no money is paid for equality of exchange or partition) by which property is conveyed *inter vivos:*

(12.) 'Counterpart' means the duplicate of a conveyance, settlement, mortgage-deed or lease, such duplicate not being executed by the grantor, settlor, mortgagor or lessor, but by some other party to the instrument: it includes a kabúliyát in cases where a lease has beengranted:

(13.) 'Dock-warrant' includes every instrument evidencing the title of any person therein named or his assign, or the holder thereof, to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the company or person in whose custody such goods may be:

(14.) 'Impressed' includes 'printed' and 'lithographed:'

(15.) 'Lease' includes every instrument (not being a counterpart) by which one person lets, or agrees to let or takes or agrees to take, immoveable property to or from another:

(16.) 'Letter of Credit' includes every instrument by which one person requests another to give credit to the person in whose favour it is drawn:

(17.) 'Letter of License' includes every agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business at his own discretion:

(18.) 'Mortgage-deed' includes every instrument evidencing a pledge of property for securing the payment of money:

(19.) 'Negotiable instrument' includes Bills of Exchange, Promissory Notes and Cheques:

(20.) 'Notarial act' means any instrument, endorsement, note or entry made or signed by a Notary Public in the execution of the duties of his office, and includes every like instrument, endorsement, note or entry made or signed by a consul, attorney, or other person authorized by law to act as a Notary Public:

(21). 'Paper' includes vellum, parchment or any other material on which an instrument may be written:

(22.) 'Partition-deed' means any instrument whereby persons interested in immoveable property jointly, or in common, or as coparceners, or as members of an undivided Hindú family, divide or agree to divide such property in severalty, and includes a batwárá:

(23.) 'Policy of insurance' means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event: it does not include a policy on life:

(24.) 'Power of Attorney' includes every instrument (except a proxy) empowering a person to act in the stead of the person executing it:

(25.) 'Promissory Note' includes every instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight:

(26.) 'Property' means property being in British India:

(27.) 'Protest' means a declaration in writing made by a Notary Public, or other person authorized to act as such, attesting the dishonour of a Bill of Exchange or Promissory Note:

(28.) 'Protest of the Master of a ship' includes every declaration of the particulars of her voyage, drawn up by him with a view to the adjustment of losses, or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship:

(29.) 'Proxy' means an instrument whereby a person authorizes another to vote for him at a meeting:

(30). 'Release' includes every instrument whereby a person renounces a claim upon another person or against any specified property:

(31). 'Respondentia-bond' includes every instrument securing a loan on the cargo laden or to be laden on board a ship, and making repayment contingent on the arrival of the cargo at the port of destination: and

(32). 'Settlement' means any instrument (other than a Will) whereby the destination or devolution of moveable or immoveable property is settled or agreed to be settled.

CHAPTER II.

STAMP-DUTIES CHARGEABLE UNDER THIS ACT.

Scheduled duties chargeable.

IV. For every instrument mentioned in the first and second schedules hereto, and executed in British India on or after the 1st day of January, 1870,

or executed out of British India on or after that day, but relating to any property within British India,

there shall be payable to the Government of India, as stamp-duty, the amount indicated in the first or second schedule hereto annexed, to be the proper duty for such instrument.

Duties how levied. By adhesive stamps. By impressed stamps.

V. (*a*).—All instruments chargeable under this Act with the duty of one anna, bills of exchange and promissory notes drawn or made out of British India, and transfers by endorsement of shares of Companies and Associations may (subject to the provisions hereinafter contained) be stamped with adhesive stamps.

(*b*).—The stamp on every other instrument chargeable under this Act shall either be impressed on the paper whereon the instrument is written or be otherwise denoted by the Collector or the Superintendent of Stamps in accordance with such rules as the Governor-General of India in Council may from time to time prescribe in this behalf.

Duties by whom payable.

VI. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—

1*st.*—In the case of any instrument mentioned in the first schedule to this Act (other than a policy of insurance, a mortgage-deed, a settlement, a conveyance, a lease, an instrument of exchange or partition-deed where money is paid for equality of exchange or partition, an appraisement or valuation, an award and a copy, duplicate or extract), by the person drawing, making, or executing such instrument:

2*nd.*—In the case of a policy of insurance, by the insured:

3*rd.*—In the case of a settlement, by the settlor:

4*th.*—In the case of a conveyance, mortgage-deed or lease, by the grantee, mortgagor or lessee:

5*th.*—In the case of a counterpart of a lease, by the lessor:

6*th.*—In the case of a partition-deed, by the parties thereto in proportion to their respective shares in the property comprised therein: and

7*th.*—In the case of an exchange where money is paid for equality of exchange, by the person paying such money.

Duties on bills of exchange.

VII. The duty imposed by this Act on bills of exchange shall be chargeable (*a*) on all bills drawn and payable in British India, (*b*) on all bills drawn in, but payable out of, British India, and (*c*) on bills drawn out of, but accepted, or paid, or endorsed, transferred, or otherwise negotiated within, British India.

Bills drawn out of British India.

VIII. The holder of any bill of exchange or promissory note drawn or made out of British India, and not stamped as required by this Act, shall, before he presents the same for acceptance or for payment, or endorses transfers, or otherwise negotiates such bill or note, affix thereto the proper adhesive stamp or stamps for denoting the duty with which it is chargeable under this Act.

Instruments reserving interest.

IX. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with a duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Consideration expressed in foreign currency.

X. When the consideration set forth in or the amount secured by any instrument chargeable under this Act is expressed in pounds sterling, pounds currency, francs or dollars, such consideration or amount shall, for the purposes of this Act, be estimated according to the following scale:—

One pound sterling or pound currency is equivalent to ten rupees.
One hundred francs are equivalent to forty rupees.
One Mexican or China dollar is equivalent to two rupees four annas.
One Mauritius dollar is equivalent to two rupees.

Optional stamps where value of subject-matter is indeterminate.

XI. When the amount or value of the subject-matter of any bond, mortgage-deed or settlement chargeable under this Act with an *ad valorem* stamp-duty and referred to or mentioned in Section 6 cannot be ascertained, the proper stamp to be borne by such instrument may be determined by the person bound under that section to bear the expense of providing the stamp:

Provided that, under such instrument, nothing shall be recoverable more than the highest amount or value for which, if stated in an instrument of the same denomination, the stamp actually used under such option would have been sufficient.

Bond, &c., for payment of annuity.

XII. The whole amount secured for the payment of an annuity, or other sum payable periodically for an indefinite time, by a bond, promissory note, or mortgage-deed shall, for the purposes of this Act, be deemed to be ten times the amount of the payment calculated for one year.

Consideration an annuity.

Where the consideration for a conveyance is an annuity or other sum payable periodically for an indefinite time, such consideration shall, for the purposes of this Act, be deemed to be ten times the amount of the payment calculated for one year.

Several instruments used in a single transaction.

XIII. Where more instruments than one are required for the completion of any transaction involving the execution of a mortgage-deed, settlement, conveyance or lease, the proper stamp required by this Act for such mortgage-deed, settlement, conveyance, or lease, shall be borne by the principal instrument executed in such transaction, and each of the other instruments shall bear a stamp of one rupee.

The parties may determine for themselves which of such instrument shall, for the purposes of this section, be deemed to be the principal instrument: Provided that, where the instruments are liable to different rates of duty under this Act, the instrument liable to the highest of such rates shall be deemed to be the principal instrument.

Instruments coming within two or more of the definitions in Section 3.

XIV. An instrument so framed as to come within two or more of the definitions in Section 3 shall, when the instruments to which those definitions apply are liable to different rates of duty under this Act, be charged with the highest of such rates:

Provided that when any one instrument purports, for distinct considerations, to convey by way of sale, to lease, to give, or to mortgage two or more subject-matters,

or to convey by way of sale, to lease, or to give one subject-matter and to mortgage another,

such instrument shall be chargeable with the aggregate amount of the duties to which instruments effecting separately each of such conveyances, leases, gifts, or mortgages would be liable under this Act.

Instruments exempt from duty.

XV. Nothing in this Act shall render the following instruments chargeable with duty :—

(1.) Receipt or discharge granted to a cultivator for the rent of land paying revenue to Government, or (in the Presidencies of Madras and Bombay) of inám lands.

(2.) Receipt given for money or securities for money deposited in any bank or in the hands of any banker or person acting as a banker to be accounted for :

Provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for :

Provided further, that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share or in respect of a call upon any scrip or share of or in any Company or Association or proposed or intended Company or Association.

(3.) Receipt or discharge endorsed on or contained in any instrument duly stamped according to the law in force in British India at the date of its execution, acknowledging the receipt of the consideration-money therein expressed, or the receipt of any principal money, interest or annuity or other periodical payment, thereby secured.

(4.) Transfer by endorsement of a negotiable instrument or a policy of marine insurance or of insurance against fire.

(5.) Letters of hypothecation accompanying a bill of exchange.

(6.) Transfers of securities of the Government of India.

(7.) Bond to Government for the due performance of the duties of any salaried office.

(8.) Agreement or memorandum of an agreement for or relating to the sale of goods or merchandize.

(9.) Lease granted to a cultivator, unless a fine or premium be paid in consideration of such lease.

(10.) Counterpart of such lease.

(11.) Surrender of land executed by a cultivator to his landlord.

(12.) Affidavit made for the sole purpose of enabling any person to receive any pension or charitable allowance.

(13.) Copy of any paper which a public officer is by law required to make or furnish in his official capacity.

(14.) Copies made for the private use only of any person having the custody of the original instrument or of his counsel, attorney or vakíl.

(15.) Receipt or other instrument executed by or on behalf of Government, in cases where the Government would, but for this exemption, be liable to pay for the stamp thereon.

(16.) Letter of cover or engagement to issue a policy of insurance ;

Provided that, unless such letter or engagement bear the stamp prescribed by this Act for such policy of insurance, nothing shall be recoverable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned.

Power to lower rates of stamp-duty.

XVI. The Governor-General of India in Council may, from time to time, by order published in the *Gazette of India*, reduce or remit in the whole or any part of British India, the duties chargeable under this Act on all or any of the instruments mentioned in the first and second schedules hereto annexed, or on any particular class of such instruments, or on any of the instruments belonging to such class, or on any of the instruments mentioned in the said schedules when executed or granted by or to any particular class of persons, or by or to any members of such class,

and may in like manner cancel or vary such order to the extent of the powers hereby given.

Every such cancelment or variation shall be published in the *Gazette of India.*

Saving of judicial stamp-duties.

XVII. Nothing in this chapter or in the schedules hereto annexed, shall be deemed to affect the stamp-duties chargeable under Act XXVI. of 1867, Section 6 or under any other enactment relating to stamps used in judicial proceedings.

CHAPTER III.

UNSTAMPED OR INSUFFICIENTLY STAMPED DOCUMENTS.

Instruments not duly stamped inadmissible in evidence.

XVIII. (*a*).—No instrument chargeable with stamp-duty shall be received in any Court of justice, or by any person having by law or consent of parties authority to receive evidence, as creating, modifying, transferring or extinguishing, or purporting to create, modify, transfer or extinguish, any right or obligation,

or as evidence in any civil proceeding,

or shall be acted upon in any such court, or by any such person as aforesaid, or by any public officer,

or shall be registered by any officer acting under any law for the registration of assurances or in any public office,

or shall be authenticated by any public officer,

unless such instrument bears a stamp of a value not less than the amount of the duty with which it is chargeable under the law in force in British India at the time of its execution.

Except in criminal proceedings.

(*b*).—Every instrument chargeable with stamp-duty shall be admitted in evidence in any criminal proceeding (other than proceedings under Chapter XXII of the Code of Criminal Procedure), although it may not have the stamp required by law impressed thereon or affixed thereto.

Foreign bill unstamped or with stamp uncancelled.

XIX. Subject to the provisions contained in Section 26, no person taking a bill of exchange or promissory note requiring a stamp under Section 8, either in payment or as a security, or by purchase or otherwise, shall be entitled to recover thereon, or to make the same available for any purpose, unless at the time when he so takes it, the proper stamp is affixed thereto and cancelled in manner directed by this Act.

*XX. When any instrument chargeable with stamp-duty executed

*See Atmaram Gulabrai *v.* Amirchand Rupchand, 3, B. R., A. C. J., p. 93.

Powers of civil courts as to unstamped or insufficiently stamped instruments.

on paper not bearing the stamp required by law in force in British India at the time of its execution is produced in a Civil Court, the Court, if satisfied that the omission to execute such instrument on paper bearing the proper stamp, did not arise out of any intention to evade payment of the proper duty, and on payment of such duty, or in the case of an insufficiently stamped instrument, of the sum required to make up the full amount chargeable on such instrument,

together with a penalty of the following amount, (that is to say):

Penalty.

if the instrument is produced within one year from the date of its execution, five times, or if it is produced after one year from such date, twenty times, such proper stamp-duty or deficient portion thereof as aforesaid.

shall certify by endorsement on such instrument that the proper stamp-duty has been levied thereon:

Provided that no such penalty shall exceed 1,000 Rupees.

Such certificate shall be conclusive evidence as to the amount of stamp-duty leviable on such instrument, and the said instrument, shall thereupon be admissible as if originally executed on paper bearing the proper stamp.

Registration of payments and penalties levied by civil courts.

XXI. (*a*).—An entry of every such payment showing the amount thereof shall be made in a book to be kept by the Court, and shall also be endorsed on the instrument in respect of which the payment is made, and such endorsement shall be signed by the presiding officer.

Returns to Collector.

(*b*).—The Court shall at the end of every month make a return to the Collector of the money (if any) which it has so received, distinguishing between the sums received by way of penalty and the sums received by way of duty, stating the number and title of the suit, the name of the party from whom the money was received, and the date (if any) and description of the instrument.

Payments to Collector.

(*c*).—The Court shall pay over all money so received to the Collector or to such person as he may from time to time appoint to receive the same.

Impounding unstamped instruments in civil or criminal courts.

XXII. If it appear to a Civil or Criminal Court that any instrument filed or exhibited in such Court was executed on unstamped or insufficiently stamped paper with the intention of evading payment of the stamp-duty required by the law in force in British India at the time of its execution, the Court may impound the instrument and send it to the Collector, and he shall thereupon prosecute the offender.

Impounding unstamped instruments in public office.

XXIII. When any instrument is produced before any registering officer, or in any public office other than a Civil or Criminal Court, if it appear to the registering officer or to the head of such public office that the instrument is chargeable with stamp-duty under the law in force in British India at the time of its execution, but that it does not bear a stamp of a value equal to or exceeding the value of the stamp prescribed therefor by that law, he shall impound the instrument, and send it forthwith to the Collector.

Powers of Collector as to unstamped or

XXIV. (*a*).—When any instrument is produced before the Collector, otherwise than for the purpose of obtaining an adjudication under Section 39, or has been sent

insufficiently stamped instruments.

Prosecution.

to him under Section 23, he shall either proceed in accordance with the provisions of Section 20, exercising the powers thereby conferred on a Civil Court; or if it appear to him that the instrument was executed on unstamped or insufficiently stamped paper with the intention of evading payment of the proper stamp-duty, he shall prosecute all the persons that have executed the said instrument or such of them as to him may seem fit;

or if it appear to him that the instrument is properly stamped, or that it is not chargeable with stamp-duty under the law in force in British India at the time of its execution, he shall certify by endorsement thereon that it is properly stamped, or that it is not so chargeable (as the case may be); and he shall thereupon return such instrument to the registering or other public officer by whom it was sent, or to the person by whom it was produced, and, subject to the provision contained in Section 40, it shall be deemed to be properly stamped or not chargeable (as the case may be):

Remission of penalty.

(*b*).—Provided that, in any case coming under this section, if the instrument is brought within one year from the date of its execution to the Collector, or other public officer by whom it has been sent to the Collector under Section 23, and if the Collector is satisfied that such instrument has not been duly stamped previously to being signed or executed by reason of accident, mistake, inadvertence or urgent necessity, he may remit the whole or any part of the penalty prescribed by Section 20:

(*c*).—Provided, also, that, in any case coming under this section in which an instrument, other than a bill of exchange or promissory note, purports to have been executed out of British India, if the Collector is satisfied that the instrument was so executed, and also that it has been brought to him within the three months next after its arrival in British India, he shall, on payment of the duty with which such instrument would have been chargeable if executed in British India, certify by endorsement thereon that the proper stamp-duty has been levied upon it.

(*d*).—Subject to the provision contained in Section 40 such certificate shall be conclusive evidence of the amount of stamp-duty leviable on the instrument, which shall thereupon be admissible as if originally executed on paper bearing the proper stamp.

Validity of instrument for which Collector levies penalty.

XXV. When the Collector elects to proceed under Section 20, he shall (if he imposes a penalty,) after endorsing on the instrument the certificate thereby directed, or (if he remits the whole of the penalty) after endorsing on the instrument a certificate to that effect, return such instrument to the registering or other public officer by whom it was sent or to the person by whom it was produced.

Subject to the provision contained in Section 40, the said instrument shall thereupon be, and be deemed to have been, as valid as if it was originally executed on paper bearing the proper stamp.

Loss of instruments sent under Section 22, 23, 24 or 25.

In case any instrument sent or returned under Section 22, 23 or 24, or the former part of this section, be lost, destroyed or injured during transmission, the Court or officer sending or returning the same shall not be liable for such loss, destruction or injury.

Power to stamp instruments chargeable with one anna.

XXVI. (*a*).—When any bill of exchange, promissory note, cheque or order for the payment of money on demand by any banker or person acting as a banker, chargeable hereunder with the duty of one anna, comes to his hands unstamped, he may affix thereto the necessary adhesive stamp, and cancel the same in the manner required by this Act, and upon so doing, may charge the duty against the person who ought to have paid the same, or deduct such duty from the sum so directed to be paid.

(*b*).—Such bill, note, cheque, or order shall, so far as relates to the stamp-duty chargeable thereon, be valid ; but this shall not relieve any person or firm from liability to the penalty which he or it may have incurred by issuing or giving the said bill, note, cheque, or order stamped.

Procedure where receipts are required.

XXVII. (*a*).—Any person, or the agent of any person, from whom money exceeding in amount twenty rupees is due or claimed to be due, and who shall have paid such money, may provide a piece of paper with an adhesive stamp of one anna affixed thereto, and may require of the person entitled to such money, or any agent to whom the same shall have been paid, a receipt for such money and also the value of the said stamp.

Refusal to give receipts.

(*b*.)—If any one to whom money shall have been so paid refuses to give such receipt upon demand thereof, or to pay the value of the said stamp thereon, he shall be liable for every such offence to a fine not exceeding 100 Rupees.

After-stamping when inadmissible.

XXVIII. Except as provided in Sections 8 and 26, no stamp shall be affixed to, or impressed on, any bill of exchange, or promissory note, or any instrument chargeable hereunder with the duty of one anna, subsequent to the execution thereof, nor shall the provisions of Sections 20 and 24 apply to any such instrument.

CHAPTER IV.

Criminal Penalties.

Penalty for executing instrument onpaper not duly stamped.

XXIX. Any person or firm making, signing or issuing or, except as provided in Section 26, accepting, endorsing, paying or receiving payment of any bill of exchange, promissory note, cheque or other similar instrument liable to any of the duties hereby imposed, without the same being duly stamped,

and any person making, executing or signing otherwise than as a witness any other instrument liable to any of such duties without the same being duly stamped,

shall, for every such offence, be liable to fine not exceeding 100 Rupees,

or, if ten times the value of the proper stamp exceeds 100 Rupees, to fine not exceeding ten times such value,

or, where an insufficient stamp has been used, if ten times the deficient amount exceeds one hundred Rupees, to fine not exceeding ten times such amount.

XXX. Any person or firm presenting for acceptance or for

Penalty for presenting, &c., unstamped foreign bills or notes.

payment, or accepting, paying, endorsing, transferring or in any manner negotiating any bill of exchange or promissory note drawn or made out of British India whereon there is not such stamp as is required by this Act, shall be liable for every such offence to fine not exceeding 100 Rupees.

Cancelling stamps on foreign bills by holder.

XXXI. Any person or firm presenting for acceptance or payment a bill of exchange or promissory note to which an adhesive stamp has been affixed under Section 8,

and any person or firm endorsing, transferring, or in any manner negotiating such bill or note,

shall, before delivering the same out of his or its hands, custody or power, cancel the stamp so affixed,

in such maner as to show that the stamp has been made use of, and so that the same shall not admit of being used again.

Penalty for failure to cancel such stamps.

Any person or firm who or which ought, as directed by this Act, to cancel such stamp in manner aforesaid, and refusing or neglecting so to do, shall be liable for every such offence to fine not exceeding 100 Rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

XXXII. Any person or firm drawing or executing within British India a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped as required by this Act the whole number of bills or policies of which such bill or policy purports the set to consist, shall, for every such offence, be liable to fine not exceeding 1,000 Rupees.

Cancellation of adhesive stamp by maker or executant.

XXXIII. Whenever an adhesive stamp is used as hereinbefore authorized, the person making the instrument to which such stamp is affixed shall, before delivering the instrument out of his hands, custody or power, cancel the stamp so used so that it cannot be used again.

Penalty for failure to cancel such stamps.

Any person making or executing such instrument and failing to cancel the stamp affixed thereto in manner aforesaid shall, for every such offence, be liable to fine not exceeding 100 Rupees.

Consideration to be stated.

XXXIV. (*a*).—When any moveable or immoveable property is sold, the full consideration-money directly or indirectly paid or secured, or agreed to be paid or secured, for the same, shall be truly set forth in words at length in the principal or only instrument whereby the property sold is conveyed to or vested in, the purchaser or in any other person by his direction.

Mortgage-money to be deemed purchase-money.

(*b*).—When any property is sold and conveyed subject to any mortgage or bond or other debt, or to any gross or entire sum of money, such debt or sum shall be deemed the consideration-money or part of the consideration-money (as the the case may be) in respect whereof the duty chargeable under the first schedule to this Act shall be paid,

notwithstanding the purchaser is not or does not become personally liable for such debt or sum.

or does not agree to pay the same or to indemnify the seller against the same.

Penalty for not stating consideration

(*c*).—If the full consideration-money is not set forth as aforesaid, the purchaser and the seller shall each be liable to fine not exceeding 500 Rupees, and shall also pay a fine of five times the amount of the excess of duty with which such instrument would have been chargeable under this Act, if the full consideration-money had been duly set forth in such instrument, in addition to the duty actually paid for the same.

Penalty on attorneys, &c., not inserting true consideration.

XXXV. Any attorney, vakíl, pleader, mukhtár or other person employed in or about the preparing of any instrument in or upon which the full consideration-money is hereby required to be truly set forth,

or employed for any of the parties thereto in anywise about or relating to the transaction therein mentioned,

who knowingly inserts or sets forth, or causes to be inserted or set forth, in or upon any such instrument any other than the full consideration-money,

shall, for every such offence, pay a fine not less than 500 Rupees and not exceeding 5,000 Rupees.

Every attorney, vakíl, pleader and mukhtár convicted under this section shall, from the date of such conviction, be disabled to practise as an attorney, vakíl, pleader or mukhtár:

Provided that no person shall be liable to any penalty or disability under this Section, unless the duty actually paid for the instrument is less than would have been payable for the same in case the consideration-money had been truly set forth as aforesaid.

Abetment.

XXXVI. Whoever abets within the meaning of the Indian Penal Code any offence made punishable by this Act shall be punished with the punishment hereinbefore provided for such offence.

Recovery of fines.

XXXVII. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

In the case of a firm, the Magistrate imposing the fine may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the firm, or to all or any of the members thereof.

Reward to informers.

XXXVIII. Whenever an offender is sentenced to pay a fine under this Act, the convicting Magistrate may award any portion not exceeding one-half to the person on whose information the offender has been convicted.

CHAPTER V.

JURISDICTION.

Adjudication of doubt as to proper stamp

XXXIX. When any instrument chargeable with stamp-duty under this Act, whether previously stamped or not, is brought to the Collector, and the person bringing it desires to have the opinion of that officer as to the

duty with which it is so chargeable, and pays a fee of five rupees, the Collector shall assess and charge the duty to which, in his judgment, the instrument is liable; and upon payment of such duty or of such a sum as, with the duty already paid thereon, is equal to the duty so assessed and charged, and of the penalty, if any, incurred through the instrument having been executed on insufficiently stamped paper, shall certify by endorsement on such instrument that the full duty with which it is chargeable under this Act has been paid.

The instrument shall thereupon be deemed to be duly stamped and shall be receivable in evidence or otherwise in all courts and public offices as if originally executed on paper bearing the proper stamp:

Provided that nothing contained in the former part of this section shall authorize the Collector to make any such endorsement on bills of exchange, promissory notes or instruments chargeable with the stamp-duty of one anna when brought to him on unstamped or insufficiently stamped paper subsequent to the drawing or execution thereof.

Revision of Collector's certificates and orders.

XL. All certificates and orders of the Collector under this Act shall be open to revision on appeal or otherwise by the chief controlling Revenue Authority to which the Collector is subordinate:

Provided that no order passed on such revision shall invalidate any registration or other proceeding previously made or taken of or upon an instrument endorsed by the Collector under Section 24 or Section 25.

Reference to High Court.

XLI. (*a*).—The chief controlling Revenue Authority may state any case coming before it under this Act and refer such case with its own opinion thereon, if the case arise in the presidency of Fort Saint George or the presidency of Bombay, to the local High Court, and if it arise in any other part of British India, to the High Court at Fort William.

(*b*).—Every such case shall be decided by at least three Judges of the High Court to which it is referred, and in case of difference the opinion of the majority shall prevail.

(*c*).—If the High Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Revenue Authority by which it was stated to make such additions thereto or alterations therein as the Court may direct in that behalf.

(*d*).—The High Court upon the hearing of any such case shall decide the questions raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded; and it shall send to the Revenue Authority by which the case was stated, a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Revenue Authority shall, on receiving the same, dispose of the case conformably to such judgment.

Power to remit penalties.

XLII. The chief controlling Revenue Authority may, upon petition, remit wholly or in part any penalty imposed under this Act.

Institution and conduct of prosecutions.

XLIII. All prosecutions in respect of any offence punishable by this Act, shall be instituted and conducted by the Collector or such other officer as the local Government generally or the Collector specially authorizes in that behalf.

Jurisdiction of Magistrate.

XLIV. Offences punishable under this Act may be tried within the limits of the towns of Calcutta, Madras and Bombay by a Magistrate of Police, and beyond those limits by the Magistrate of the District or a person exercising the powers of a Magistrate (as defined in the Code of Criminal Procedure) or of a Subordinate Magistrate of the first class:

Provided that, in imposing penalties under this Act, no such person shall exceed the limits of jurisdiction prescribed for him by the said Code.

CHAPTER VI.

MISCELLANEOUS.

Refund in case of useless or spoiled stamped paper.

XLV. If any person possessing any stamped paper which has been obtained in the manner allowed by this Act or Act X. of 1862 *(to consolidate and amend the law relating to stamp duties)*, or any paper on which the stamp has been denoted by the Collector or the Superintendent of Stamps, does not require the same for use,

or if the paper so possessed becomes spoiled or unfit for use as hereinafter mentioned,

the Collector of the District in which the paper has been purchased may, upon application made to him within one year after such purchase, and upon delivery to him of such paper, refund the amount paid to Government for the same, whether by the applicant or any other person;

or in case the owner of the paper so spoiled or unfit for use, desires to be supplied with stamped paper of similar or equal value, the Collector may cause such paper to be delivered to him or his agent upon payment of the value of the paper on which the new stamp or stamps shall be impressed.

When stamped paper shall be held to be spoiled.

XLVI. Stamped paper and paper on which the stamp has been denoted by the Collector or the Superintendent of Stamps, shall be held to be spoiled or unfit for use within the meaning of Section 45 when—

by accident happening to the same before any writing thereupon has been finally signed and executed, it is rendered unfit for use;

or when, because of some error in the drawing up or copying of any writing thereon, discovered before such writing has been finally signed and executed, it is rendered of no avail;

or when, by reason of death or refusal of the party whose signature may be necessary to effect the transaction intended by such writing, it remains incomplete and of no avail;

or when, by refusal of any office or trust granted by a writing thereon, it has failed of the purpose intended;

or when, by reason of failure of consideration, the transaction intended to be effected or evidenced by a writing thereon cannot be effected or evidenced;

or when the transaction intended to be effected by a writing thereon has been effected by some other instrument duly stamped;

or when, in the case of a negotiable instrument, such instrument is, by reason of non-delivery to the payee or person acting in his behalf, or other cause, never brought into use;

or when, in the case of a bill of exchange other than a bill drawn in a set, it has not been presented for acceptance or payment.

Suit where consideration is not stated.

XLVII. Where in case of a sale, or an exchange upon which money is paid for equality of exchange, or a lease for a premium, the full consideration-money is not truly set forth in the manner hereby directed, the purchaser, or the person paying money for equality of exchange, or the lease (as the case may be), or his representative in interest, may sue for and recover back from the seller, or the person receiving such money, or the lessor (as the case may be), or his representative in interest, so much of the consideration-money as is not set forth as aforesaid, or the whole thereof, if no part of the same is so set forth;

and in such suit, notwithstanding anything hereinbefore contained, the conveyance, instrument of exchange, or lease shall be admissible in evidence.

Power to make rules for sale of stamps.

XLVIII. Every local Government shall frame rules for regulating the sale of stamps and stamped paper required by this Act or by Act XXVI. of 1867 *(to amend the law relating to stamp duties)* for determining the persons by whom such sale is to be conducted, and for fixing the remuneration of such persons within the territories subject to its control; and may from time to time alter and add to such rules.

Approval and publication of rules

Such rules, alterations and additions shall, when approved by the Governor-General of India in Council, and after publication in the local official Gazette, have the force of law.

Penalty for disobeying rules.

Any person appointed to sell such stamps and stamped paper, who knowingly disobeys any such rule, shall be punished with simple imprisonment for a term which may extend to six months, or with fine not exceeding 500 Rupees, or with both.

Employment of single impressed stamp.

XLIX. When an impressed stamp is used under Section 5 to denote the amount of duty with which any instrument is chargeable, such amount shall be denoted by a single stamp, except when such amount exceeds 1,000 Rupees, in which case it may be denoted by two or more impressed stamps of which the aggregate amount is the amount so required:

Provided that, when a single impressed stamp of any amount less than 1,000 Rupees is not procurable on application to the Collector or stamp-vendor appointed under Section 48, it shall be lawful, on such officer making a certificate to that effect, for the person requiring such stamp to denote the amount by two or more impressed stamps, of which the aggregate amount is the amount so required.

Employment of several stamped papers.

L. When more stamped papers than one are used under Section 49 for an instrument chargeable with stamp-duty under this Act, each paper so used shall contain a part of the instrument.

Act to be translated, indexed and sold cheaply.

LI. Every local Government shall cause this Act and the schedules hereto annexed to be carefully translated into the principal vernacular languages of the territories subject to its control.

A full alphabetical index shall be added to every such translation, and the translation and index shall be printed and sold to the public at a price not exceeding four annas per copy.

SCHEDULE I.

Instruments chargeable with ad valorem Stamp-duties.

Description of Instruments.		Proper Stamp-duty.		
		If drawn singly.	If drawn in set of two, for each part of the set.	If drawn in set of three, for each part of the set.
		Rs. A. P.	Rs. A. P.	Rs. A. P.
1. Bill of Exchange Payable Otherwise than on Demand ...	When the amount of the bill or note does not exceed Rs. 100	0 1 0	0 1 0	0 1 0
	And when the amount exceeds Rs. 100 but does not exceed Rs. 200	0 2 0	0 1 0	0 1 0
	" " 200 " " 300	0 3 0	0 2 0	0 1 0
	" " 300 " " 600	0 6 0	0 3 0	0 2 0
	" " 600 " " 900	0 9 0	0 5 0	0 3 0
2. Promissory Note Payable otherwise than on Demand ..	" " 900 " " 1,200 ...	0 12 0	0 6 0	0 4 0
	" " 1,200 " " 1,500	0 15 0	0 8 0	0 5 0
	" " 1,500 " " 2,500	1 8 0	0 12 0	0 8 0
	For every Rs 2,500 or part thereof in excess of Rs. 2,500 up to Rs. 10,000 ...	1 8 0	0 12 0	0 8 0
	For every Rs. 5,000 or part thereof in excess of Rs 10,000 up to Rs. 30,000 ...	3 0 0	1 8 0	1 0 0
	And for every Rs. 10,000 or part thereof in excess of Rs. 30,000	6 0 0	3 0 0	2 0 0

		If drawn singly.	If drawn in duplicate, then for each part.
		Rs. A. P.	Rs A. P.
3. Policy of Insurance	When the amount insured does not exceed Rs. 1,000	0 4 0	0 2 0
	And for every further sum of Rs. 1,000 insured or for every part thereof ...	0 4 0	0 2 0

SCHEDULE I—(*Continued*).

Instruments chargeable with ad valorem Stamp-duties.

Description of Instruments.		Proper Stamp-duty.
		Rs. A. P.
4. *Transfer of a Share in a Company or Association...	When the amount paid for such share does not exceed Rs. 100 ...	0 4 0
	For every Rs 100 of such amount or part thereof in excess of Rs. 100 up to Rs. 1,000	0 4 0
	And for every Rs. 500 of the same or part thereof in excess of Rs. 1,000	1 4 0
5. Bond for any specified amount, other than an Administration Bond	When the amount secured does not exceed Rs. 25	0 2 0
	When such amount exceeds Rs 25 but does not exceed Rs. 50 ...	0 4 0
	" " " 50 " " " 100 ...	0 8 0
6. Bottomry-Bond ..	For every Rs. 100 or part thereof in excess of Rs. 100 up to Rs. 1,000	0 8 0
7. Respondentia-Bond ...	" " 500 " " " " 1,000 " " 10,000	2 8 0
	" " 1,000 " " " ,. 10,000 ,. " 30,000	2 8 0
	And for every Rs. 10,000 or part thereof in excess of " 30,000	12 8 0
8. Customs-Bond	(*a*). When the amount secured does not exceed Rs. 1,000 ...	The stamp-duty with which a Bond for such amount is chargeable (No. 5).
	(*b*). When such amount exceeds Rs. 1,000	Five Rupees.

9. INDEMNITY-BOND ...	(a). When the amount secured does not exceed Rs. 3,000 ...	The stamp-duty with which a Bond for such amount is chargeable (No. 5).
	(b). When such amount exceeds Rs. 3,000 or is not expressed ...	Sixteen Rupees.
10. MORTGAGE-DEED, when Possession of the Property comprised therein is not given by the Mortgagor at the time of execution ...	... ...	The stamp-duty with which a Bond for the amount secured is chargeable (No. 5).
11. INSTRUMENT OF FURTHER CHARGE on such Property, whether by Indorsement or otherwise ...		
12. BOND OR MORTGAGE-DEED for the due execution of an office, or to account for Money received by virtue thereof ...	(a). When the amount secured does not exceed Rs. 3,000 ...	The stamp-duty with which a Bond for such amount is chargeable (No. 5).
	(b). When such amount exceeds Rs. 3,000 or the amount is not expressed ...	Sixteen Rupees.
13. ASSIGNMENT OF ANY INTEREST SECURED BY A BOND OR MORTGAGE-DEED ...	(a). When the amount of such interest does not exceed Rs. 3,000 ..	The stamp-duty with which a Bond for such amount is chargeable (No. 5).
	(b). In any other case ...	Sixteen Rupees.
14. SETTLEMENT ...	... ...	The stamp-duty with which a Bond for the amount or value of the property thereby settled is chargeable (No. 5).

NOTE.—The stamp-duty chargeable on the instrument marked * may be denoted by an adhesive stamp when the transfer is made by endorsement.

SCHEDULE I—(*Continued*).

Instruments chargeable with ad volorem Stamp-duties.

Description of Instruments.		Proper Stamp-duty.		
		Rs.	A.	P,
15. Conveyance ...	When the amount paid or secured does not exceed Rs. 50 ...	0	8	0
16. Mortgage-deed, when Possession of the Property comprised therein is given by the Mortgagor at the time of execution ..	When such amount exceeds Rs. 50 but does not exceed Rs. 100	1	0	0
	For every Rs. 100 or part thereof in excess of Rs. 100 up to Rs. 1,000	1	0	0
	" 500 " " 1,000 10,000	5	0	0
17. Instrument of further charge on such Property, whether by Indorsement or otherwise ...	" 1,000 " " 10,000 30,000	5	0	0
	" 10,000 " " 30,000 1,00,000	50	0	0
	" 20,000 " " 1,00,000 ...	75	0	0
18. Instrument of exchange or partition of immoveable property when Money is paid for equality of Exchange or Partition ...	... ...	The stamp-duty with which conveyance for the amount so paid is chargeable (No. 15), in addition to the stamp-duty with which an instrument of exchange of immoveable property or a partition-deed is chargeable under schedule II.		
	(*a*). Where the lease is expressed to be for a term of less than one year	The stamp-duty with which a Bond (No. 5) for the total amount payable under such lease is chargeable.		

19. LEASE ...	(b). Where the lease is expressed to be for a term of not less than one year but not more than three years	The stamp-duty with which a Bond for the total amount payable under such lease during the first year of the term is chargeable.
	(c). Where the lease is expressed to be for a term exceeding three years, or where no term is expressed	The stamp-duty with which a conveyance for the total amount payable under such lease during the first year of the term is chargeable.
	(d). Where the lease is granted in consideration of a fine or premium, and where no rent is reserved	The stamp-duty with which a conveyance for the amount so paid is chargeable.
	(e). Where the lease is granted in consideration of a fine or premium and also of a rent	The stamp-duty with which a conveyance for the amount of the fine or premium is chargeable, in addition to the stamp-duty with which the lease would be chargeable in case no such fine or premium had been paid.
20. SURRENDER OF LEASE ...	(a). Where the amount of stamp-duty chargeable on the lease does not exceed Rs. 16	The stamp-duty with which the lease is chargeable (No. 19).
	(b). In any other case	Sixteen Rupees.

SCHEDULE I—*(Continued).*

Instruments chargeable with ad valorem Stamp-duties.

Description of Instruments.		Proper Stamp-duty.
21. Appraisement or Valuation— Of any property or of any interest therein ... Or of the annual or monthly value thereof ... Or of any repairs wanted ... Or of the materials used or to be used in any building Or of any Artificer's work	(*a*). Where the amount of such appraisement or valuation does not exceed Rs. 500	Eight Annas.
	(*b*). Where it exceeds Rs. 500...	One Rupee.
22. Award ...	(*a*). Where the amount or value of the property in dispute expressed in such award does not exceed Rs. 500	Eight Annas.
	(*b*.) Where such amount or value exceed Rs. 500, or where no amount or value is expressed in the award	One Rupee.
23. Copy, Duplicate or Extract, attested to be a true copy, duplicate or extract	(*a*). If the duty chargeable on the original does not exceed Rs. 5, or if no duty is chargeable on the original	Eight Annas.
	(*b*). If the duty chargeable on the original exceeds Rs. 5, but does not exceed Rs. 20	One Rupee.
	(*c*). If such duty exceeds Rs. 20, but does not exceed Rs. 50 ...	Two Rupees.
	(*d*). If such duty exceeds Rs. 50	Four Rupees.

SCHEDULE I—*(Continued).*

Table showing the Stamp-duty chargeable under this Schedule on any Bill of Exchange or Promissory Note, the amount of which does not exceed Rs. 2,00,000.

When the amount exceeds		but does not exceed	Proper Stamp-duty: If drawn singly		If drawn in sets of two, for each part of the set		If drawn in sets of three, for each part of the set	
Rs.		Rs.	Rs.	A.	Rs.	A.	Rs.	A.
...	...	100	0	1	0	1	0	1
100	...	200	0	2	0	1	0	1
200	...	300	0	3	0	2	0	1
300	...	600	0	6	0	3	0	2
600	...	900	0	9	0	5	0	3
900	...	1,200	0	12	0	6	0	4
1,200	...	1,500	0	15	0	8	0	5
1,500	...	2,500	1	8	0	12	0	8
2,500	...	5,000	3	0	1	8	1	0
5,000	...	7,500	4	8	2	4	1	8
7,500	...	10,000	6	0	3	0	2	0
10,000	...	15,000	9	0.	4	8	3	0
15,000	...	20,000	12	0	6	0	4	0
20,000	...	25,000	15	0	7	8	5	0
25,000	...	30,000	18	0	9	0	6	0
30,000	...	40,000	24	0	12	0	8	0
40,000	...	50,000	30	0	15	0	10	0
50,000	...	60,000	36	0	18	0	12	0
60,000	...	70,000	42	0	21	0	14	0
70,000	...	80,000	48	0	24	0	16	0
80,000	...	90,000	54	0	27	0	18	0
90,000	...	1,00,000	60	0	30	0	20	0
1,00,000	...	1,10,000	66	0	33	0	22	0
1,10,000	...	1,20,000	72	0	36	0	24	0
1,20,000	...	1,30,000	78	0	39	0	26	0
1,30,000	...	1,40,000	84	0	42	0	28	0
1,40,000	...	1,50,000	90	0	45	0	30	0
1,50,000	...	1,60,000	96	0	48	0	32	0
1,60,000	...	1,70,000	102	0	51	0	34	0
1,70,000	...	1,80,000	108	0	54	0	36	0
1,80,000	...	1,90,000	114	0	57	0	38	0
1,90,000	...	2,00,000	120	0	60	0	40	0

SCHEDULE I—*(Continued).*

Table showing the Stamp-duty chargeable under this Schedule on Bonds for any sum not exceeding Rs. 4,00,000.

When such sum exceeds			but does not exceed	Proper Stamp-duty.	
Rs.			Rs.	Rs.	A.
...	...	...	25	0	2
25	...	...	50	0	4
50	...	...	100	0	8
100	...	...	200	1	0
200	...	...	300	1	8
300	...	...	400	2	0
400	...	...	500	2	8
500	...	...	600	3	0
600	...	...	700	3	8
700	...	...	800	4	0
800	...	...	900	4	8
900	...	...	1,000	5	0
1,000	...	...	1,500	7	8
1500,	...	...	2,000	10	0
2,000	...	...	2,500	12	8
2,500	...	...	3,000	15	0
3,000	...	...	3,500	17	8
3,500	...	...	4,000	20	0
4,000	...	...	4,500	22	8
4,500	...	...	5,000	25	0
5,000	...	...	5,500	27	8
5,500	...	...	6,000	30	0
6,000	...	...	6,500	32	8
6,500	...	...	7,000	35	0
7,000	...	...	7,500	37	8
7,500	...	...	8,000	40	0
8,000	...	...	8,500	42	8
8,500	...	...	9,000	45	0
9,000	...	...	9,500	47	8
9,500	...	...	10,000	50	0
10,000	...	...	11,000	52	8
11,000	...	...	12,000	55	0
12,000	...	...	13,000	57	8
13,000	...	...	14,000	60	0
14,000	...	...	15,000	62	8
15,000	...	...	16,000	65	0
16,000	...	...	17,000	67	8
17,000	...	...	18,000	70	0
18,000	...	...	19,000	72	8
19,000	...	...	20,000	75	0
20,000	...	...	21,000	77	8
21,000	...	...	22,000	80	0
22,000	...	...	23,000	82	8

SCHEDULE I—*(Continued).*

Table showing the Stamp-duty chargeable under this Schedule on Bonds for any sum not exceeding Rs. 4,00,000—(continued).

When such sum exceeds			but does not exceed	Proper Stamp-duty.	
Rs.			Rs.	Rs.	A.
23,000	...	...	24,000	85	0
24,000	...	...	25,000	87	8
25,000	...	...	26,000	90	0
26,000	...	...	27,000	92	8
27,000	...	...	28,000	95	0
28,000	...	...	29,000	97	8
29,000	...	...	30,000	100	0
30,000	...	...	40,000	112	8
40,000	...	...	50,000	125	0
50,000	...	...	60,000	137	8
60,000	...	...	70,000	150	0
70,000	...	...	80,000	162	8
80,000	...	...	90,000	175	0
90,000	...	...	1,00,000	187	8
1,00,000	...	...	1,10,000	200	0
1,10,000	...	...	1,20,000	212	8
1,20,000	...	...	1,30,000	225	0
1,30,000	...	...	1,40,000	237	8
1,40,000	...	...	1,50,000	250	0
1,50,000	...	...	1,60,000	262	8
1,60,000	...	...	1,70,000	275	0
1,70,000	...	...	1,80,000	287	8
1,80,000	...	...	1,90,000	300	0
1,90,000	...	...	2,00,000	312	8
2,00,000	...	...	2,10,000	325	0
2,10,000	...	...	2,20,000	337	8
2,20,000	...	...	2,30,000	350	0
2,30,000	...	...	2,40,000	362	8
2,40,000	...	...	2,50,000	375	0
2,50,000	...	...	2,60,000	387	8
2,60,000	...	...	2,70,000	400	0
2,70,000	...	...	2,80,000	412	8
2'80,000	...	...	2,90,000	425	0
2,90,000	...	...	3,00,000	437	8
3,00,000	...	...	3,10,000	450	0
3,10,000	...	...	3,20,000	462	8
3,20,000	...	...	3,30,000	475	0
3,30,000	...	...	3,40,000	487	8
3,40,000	...	...	3,50,000	500	0
3,50,000	...	...	3,60,000	512	8
3,60,000	...	...	3,70,000	525	0
3,70,000	...	...	3,80,000	537	8
3,80,000	...	...	3,90,000	550	0
3,90,000	...	...	4,00,000	562	8

SCHEDULE I—*(Continued).*

Table showing the Stamp-duty chargeable under this Schedule on any Conveyance the consideration-money set forth in which does not exceed Rs. 4,00,000.

When the amount of such consideration-money exceeds			but does not exceed	Proper Stamp-duty.	
Rs.			Rs.	Rs.	A.
...	...	...	50	0	8
50	...	...	100	1	0
100	...	...	200	2	0
200	...	...	300	3	0
300	...	...	400	4	0
400	...	...	500	5	0
500	...	...	600	6	0
600	...	...	700	7	0
700	...	...	800	8	0
800	...	...	900	9	0
900	...	...	1,000	10	0
1,000	...	...	1,500	15	0
1,500	...	...	2,000	20	0
2,000	...	...	2,500	25	0
2,500	...	...	3,000	30	0
3,000	...	...	3,500	35	0
3,500	...	...	4,000	40	0
4,000	...	...	4,500	45	0
4,500	...	...	5,000	50	0
5,000	...	...	5,500	55	0
5,500	...	...	6,000	60	0
6,000	...	...	6,500	65	0
6,500	...	...	7,000	70	0
7,000	...	...	7,500	75	0
7,500	...	...	8,000	80	0
8,000	...	...	8,500	85	0
8,500	...	...	9,000	90	0
9,000	...	...	9,500	95	0
9,500	...	...	10,000	100	0
10,000	...	...	11,000	105	0
11,000	...	...	12,000	110	0
12,000	...	...	13,000	115	0
13,000	...	...	14,000	120	0
14,000	...	...	15,000	125	0
15,000	...	...	16,000	130	0
16,000	...	...	17,000	135	0

SCHEDULE I—(*Continued*).

Table showing the Stamp-duty chargeable under this Schedule on any Conveyance the consideration-money set forth in which does not exceed Rs. 4,00,000—(continued).

When the amount of such consideration-money exceeds			but does not exceed	Proper Stamp-duty.	
Rs.			Rs.	Rs.	A.
17,000	...	...	18,000	140	0
18,000	...	...	19,000	145	0
19,000	...	...	20,000	150	0
20,000	...	...	21,000	155	0
21,000	...	...	22,000	160	0
22,000	...	...	23,000	165	0
23,000	...	...	24,000	170	0
24,000	...	...	25,000	175	0
25,000	...	...	26,000	180	0
26,000	...	...	27,000	185	0
27,000	...	...	28,000	190	0
28,000	...	...	29,000	195	0
29,000	...	...	30,000	200	0
30,000	...	...	40,000	250	0
40,000	...	...	50,000	300	0
50,000	...	...	60,000	350	0
60,000	...	...	70,000	400	0
70,000	...	...	80,000	450	0
80,000	...	...	90,000	500	0
90,000	...	...	1,00,000	550	0
1,00,000	...	...	1,20,000	625	0
1,20,000	...	...	1,40,000	700	0
1,40,000	...	...	1,60,000	775	0
1,60,000	...	...	1,80,000	850	0
1,80,000	...	...	2,00,000	925	0
2,00,000	...	...	2,20,000	1,000	0
2,20,000	...	...	2,40,000	1,075	0
2,40,000	...	...	2,60,000	1,150	0
2,60,000	...	...	2,80,000	1,225	0
2,80,000	...	...	3,00,000	1,300	0
3,00,000	...	...	3,20,000	1,375	0
3,20,000	...	...	3,40,000	1,450	0
3,40,000	...	...	3,60,000	1,525	0
3,60,000	...	...	3,80,000	1,600	0
3,80,000	...	...	4,00,000	1,675	0

SCHEDULE II.

Instruments chargeable with fixed Stamp-duties.

Description of Instruments.	Proper Stamp-duty.
1.—Bill of Exchange, Promissory Note, Cheque or Order for the payment on demand of an amount exceeding twenty rupees	One Anna.
2.—Letter of Credit	
3.—Agreement of Memorandum of an Agreement relating to the sale of any Government Security, share in a Company or Association, or Bill of Exchange...	
4.—Certificate or other Document purporting to denote the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any Company or Association, or proposed Company or Association, or to become proprietor of shares, scrip or stock in or of any such Company or Association	
5.—Note or Memorandum written in any book or written on a separate paper whereby any account, debt or demand, or any part of any account, debt or demand therein specified, and amounting to twenty rupees or upwards, is expressed to have been balanced, or is acknowledged to be due	
6.—Shipping Order for or relating to the conveyance of goods on board of any vessel	
7.—Receipt or Discharge given for or upon the payment of money, or delivery of goods, in satisfaction of a debt, the amount or value of which money or goods exceeds twenty rupees ...	
8.—Proxy to vote at any one meeting of—	
(*a.*)—Members of a Company or Association whose stock or funds is or are divided into shares and transferable	
(*b.*)—Municipal Commissioners ...	
(*c.*)—Justices of the Peace, being a body corporate	
(*d.*)—Proprietors, members or contributors to the funds of any institution	

* This duty may be denoted by an adhesive stamp.

SCHEDULE II—(*Continued*).

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
9.—BILL OF LADING...	Four Annas.
10.—DOCK-WARRANT	
11.—ANY AGREEMENT OR MEMORANDUM OF AN AGREEMENT not otherwise provided for by this Act: Provided that where two or more letters are offered in evidence to prove any agreement between the parties who shall have written such letters, it shall be sufficient if any one of such letters shall be stamped as an agreement. ...	Eight Annas.
12.—NOTICE OF PROTEST by the master of a ship	
13.—POWER-OF-ATTORNEY to present for registration— (*a.*)—A single instrument ... ... (*b.*)—Any number of instruments required for the completion of a single transaction	
14.—AFFIDAVIT not made for the immediate purpose of being produced in any Court	One Rupee
15.—COLLATERAL INSTRUMENT not otherwise provided for by this Schedule ...	
16.—COUNTERPART OF ANY INSTRUMENT chargeable with stamp-duty under this Act: Provided that the counterpart shall not be available unless the Collector or such other officer as he may authorize in that behalf shall certify that the proper stamp-duty on the original instrument has been paid. Such certificate shall be endorsed on the counterpart on the same being produced together with the original instrument, and on the whole being duly executed and duly stamped in other respects ...	
17.—INSTRUMENT OF DISSOLUTION OF PARTNERSHIP	
18.—POWER-OF-ATTORNEY for the performance of a single act when the value of the matter to be dealt with does not exceed 500 rupees	

SCHEDULE II—(*Continued*).

Description of Instruments.	Proper Stamp-duty.
19.—Power-of-Attorney for the performance of a single act when the value of the matter to be dealt with exceeds 500 rupees	Two Rupees.
20.—Bond or Mortgage-Deed executed as a collateral security for the performance of any act where such performance is secured by some instrument previously executed on stamped paper in accordance with the law in force in British India at the time of its execution	Two Rupees.
21.—Instrument Evidencing an Agreement to secure the re-payment on or before the expiration of three months from the date of such instrument of a loan made upon the deposit of title-deeds or other valuable security ...	Two Rupees.
22.—Charter-Party...	Two Rupees.
23.—Notarial Act	Two Rupees.
24.—Protest of a Bill of Exchange or Promissory Note	Two Rupees.
25.—Protest of the Master or Owner of a ship	Two Rupees.
26.—Instrument of Co-Partnership ...	Four Rupees.
27.—Reconveyance of mortgaged property, when the original mortgage-deed has been stamped in accordance with the law in force in British India at the time of its execution	Four Rupees.
28.—Composition-deed.	Eight Rupees.
29.—Letter of License	Eight Rupees.
30.—Release	Eight Rupees.
31.—Instrument purporting to confer an authority to adopt	Eight Rupees.
32.—Power-of-Attorney not otherwise provided for by this Schedule ...	Eight Rupees.

SCHEDUDE II—(*Concluded*).

DESCRIPTION OF INSTRUMENTS.	PROPER STAMP-DUTY.
33.—ARTICLES OF ASSOCIATION of a Company 34.—MEMORANDUM OF ASSOCIATION of a Company ... ... 35.—APPOINTMENT in execution of a power, whether of Trustees, or of property, moveable or immoveable, where made by any writing not being a Will ... 36.—DECLARATION OF ANY USE OR TRUST of or concerning any property, moveable or immoveable, where made by any writing not being a Will ... ... 37.—INSTRUMENT OF GIFT OF IMMOVEABLE PROPERTY ... ... 38.—INSTRUMENT OF EXCHANGE OF IMMOVEABLE PROPERTY where no money is paid or agreed to be paid for equality of exchange ... ... 39.—PARTITION-DEED relating to immoveable property where no money is paid or agreed to be paid for equality of exchange	Sixteen Rupees.
40.—PETITION FOR LEAVE TO FILE A SPECIFICATION OF AN INVENTION, or for the extension of the term of the exclusive privilege of making, using or selling such invention in India	One hundred Rupees.
41.—ARTICLES OF CLERKSHIP or contract whereby any person shall first become bound to serve as a clerk in order to his admission as an Attorney in any High Court	Five hundred Rupees.

SCHEDULE III.

Repealed by the Repealing Act XIV., 1870.

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(*Nothing hereinafter contained shall be deemed to have the force of law.*)

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ACT No. XIX. OF 1869.

An Act to facilitate administration to the estates of deceased British subjects in the Hyderabad Assigned Districts.

Preamble.

Whereas under the Administrator General's Act, 1867, the Administrator General of Madras is, in the cases therein mentioned, entitled to administer to the estates of deceased British subjects in the Hyderabad Assigned Districts; and whereas the facilities of communication between the said Districts and Bombay are now greater than those between the said Districts and Madras, and it is therefore expedient to substitute, so far as regards the said estates, the Administrator General of Bombay for the Administrator General of Madras; It is hereby enacted as follows:

Alterations of Act XXIV. of 1867, Sec. 3

I. The definition of "Presidency of Madras" contained in the third section of the Administrator General's Act, 1867, shall be read as if the words "and the Hyderabad Assigned Districts" were omitted therefrom;

and the definition of "Presidency of Bombay" contained in the same section shall be read as if the following words were added thereto (that is to say) "and also, so far as regards British subjects, the Hyderabad Assigned Districts."

Saving of probates and administrations already granted to Administrator General of Madras.

II. Nothing in this Act shall affect the rights, powers or duties of the Administrator General of Madras, under or by virtue of any probate or letters of administration heretofore granted to him.

ACT No. XX. OF 1869.

1. Short title
2 Extent of Act.
3. Repealed
4 "Magistrate"
5 Formation of corps.
6 Certificate of Commanding Officer to be evidence of enrolment.
7. Power to disband Corps or remove members
8. Volunteers subjected to Articles of War so far as they apply to officers. Proviso.
9 Appointment of and sentences by General Courts Martial.
10 General Courts Martial of whom to be composed.
11. Regimental Courts Martial
12 Procedure of Courts Martial held under this Act.
13 Power to quit the corps
14. Commissions to officers to cease on retirement or dismissal
15 Delivery of Arms belonging to Government by members quitting the corps.
16 No Member bound to serve beyond certain distance
17 Commanding Officer to frame rules which shall be binding on the Members.
18 Not attending actual duty other than drill or parade
19 Not attending drill or parade Other minor Military offences
20 Punishment for non payment of fine
21. Penalty for assaulting or resisting Volunteers in discharge of their duty.
22 Recovery of fines
23 Power to disarm persons And to apprehend and deliver to Police Forfeiture of weapons seized.
24 Power to prevent disturbances of the public peace. To disperse unlawful assemblies. To apprehend certain suspected persons
25 Exemption from horse-tax.
26. Limitation of suits.

An Act to provide for the good order and discipline of Volunteer Corps and to invest them with certain powers.

Preamble.

Whereas many loyal subjects of Her Majesty have volunteered their services for the protection of life and property and the preservation of the peace, and have with the sanction of Government associated and enrolled themselves as Military Corps under the command of officers appointed for that purpose; and it is expedient to provide for the good order and discipline of such corps,

and to invest their members with certain powers; It is hereby enacted as follows:

Preliminary.

Short Title.

I. This Act may be called "The Indian Volunteers' Act, 1869."

Extent of Act.

II. This Act shall extend to the whole of British India and (so far as regards British subjects) to the dominions of Native Princes and States in alliance with Her Majesty.

III. *Repealed by the Repealing Act XIV.*, 1870.

"Magistrate."

IV. In this Act "Magistrate" means, within the limits of the Presidency Towns, a Magistrate of Police and, without those limits, a person exercising the full powers of a Magistrate.

Formation and Dissolution of Volunteer Corps.

Formation of corps.

V. Corps of Volunteers may, with the sanction of the Governor-General of India in Council, or of the local Government, be formed in any part of British India or of the said dominions.

Certificate of Commanding Officer to be evidence of enrolment.

VI. A certificate of enrolment in such corps, signed by the Commanding Officer thereof, shall be *primâ facie* evidence of such enrolment.

Power to disband corps or remove members.

VII. The Governor-General of India in Council or the local Government may disband any corps formed or enrolled under the provisions of this Act, or of Act XXIII. of 1857, or remove from such corps any member thereof.

Application of Articles of War.

Volunteers subjected to Articles of War so far as they apply to officers.

VIII. Every member of a corps of Volunteers shall, for all military offences of which he shall be guilty whilst on actual duty or on parade, be subject to the Articles of War for the time being in force for the better government of Her Majesty's Army, so far as the same are applicable to officers and consistent with the provisions of this Act.:

Proviso.

Provided that no such member shall for any offence against the said Articles be subject to the punishment of death.

Courts Martial.

Appointment of and sentences by General Courts Martial.

IX. General Courts Martial shall be convened and appointed by the Commanding Officer of the corps, with the sanction of the local Government, for the trial of military offences of which any member of such corps shall be guilty whilst on actual duty.

No sentence of such Court Martial shall be put into execution until after a report of the whole proceedings shall have been made to, and the sentence shall have been confirmed by, the local Government.

The local Government may commute any such sentence for a less punishment, or pardon the offender.

General Courts Martial of whom to be composed.

X. General Courts Martial shall consist of not less than nine members of the corps, and every member of the corps, whether an officer or not, shall be competent to sit and act as a member of such Court Martial.

Regimental Courts Martial.

XI. Regimental Courts Martial may be convened by the Commanding Officer of the corps, and shall consist of not less than three members of the corps.

Procedure of Courts Martial held under this Act.

XII. The proceedings of Courts Martial convened under this Act shall be conducted according to the laws and customs applicable to Courts Martial held under the said Articles of War, except so far as the same are inconsistent with the provisions of this Act.

Withdrawal from Corps.

Power to quit the corps.

XIII. Any person enrolled as a member of a corps of Volunteers, whether he shall have been elected or commissioned as an officer in such corps or not, may, except whilst on actual duty, quit the corps upon giving to the Officer Commanding the corps seven days' previous notice in writing of his intention so to do, or without such notice if the Commanding Officer of the corps shall consider it reasonable and allow him so to do.

Commissions to officers to cease on retirement or dismissal.

XIV. Every commission to any member of a corps of Volunteers appointing him an officer in such corps shall cease upon his retirement or dismissal from the corps.

Delivery of arms belonging to Government by members quitting the corps.

XV. Every member of a corps of Volunteers who shall have received any arms, ammunition, accoutrements, or uniform belonging to Government, or which shall have been furnished from the public stores, or at the public expense, shall, upon his quitting such corps,

or upon his dismissal therefrom,

or whenever he shall be required so to do by the Commanding Officer of the corps,

or whenever the corps shall be disbanded,

deliver up to the Commanding Officer or such person as he shall appoint to receive the same, all such arms, ammunition, accoutrements, and uniform in good order and condition, reasonable wear thereof only excepted; and in default thereof he shall pay such sum of money as shall be adjudged by a Regimental Court Martial to be assembled for that purpose by the Commanding Officer of the corps. A copy of such adjudication, signed by the President of the Court Martial, shall be sent to the principal Court of original civil jurisdiction in the district in which the adjudication shall have been given, and shall be executed by such Court as if it were a decree for money under the Code of Civil Procedure.

Local Limits of Service.

No member bound to serve beyond certain distance.

XVI. No member of a corps of Volunteers shall be bound, without his consent, to serve or proceed on duty beyond the limits within which he shall have voluntarily engaged to serve or proceed on duty in accordance with the terms upon which the corps to which he belongs shall have been con-

stituted; and in case no such limits shall have been fixed, he shall not be liable to serve or proceed on duty beyond four miles from the place at which he was enrolled.

Rules.

Commanding Officer to frame rules which shall be binding on the members.

XVII. The Commanding Officer of every corps of Volunteers may frame such general rules as he may think fit, for regulating the times at which and the manner in which the duties of the corps and of the several members or detachments thereof shall be discharged.

Such rules, when sanctioned by the local Government, shall be binding on the corps and on the several members thereof.

Penalties.

Not attending actual duty other than drill or parade.

XVIII. If any member of a corps of Volunteers, being warned for actual duty other than drill or parade, shall, without reasonable excuse, neglect to attend such duty, he shall be liable, upon conviction by a General Court Martial, to a fine not exceeding, 100 Rupees, or to simple dismissal form the corps, or to dismissal from the corps as unworthy to belong to it.

Not attending drill or parade.

XIX. If any member of such corps shall, without reasonable excuse, neglect to attend drill or parade at such times as may be appointed for that purpose,

Other minor military offence.

or shall be guilty of any neglect of duty or other military offence which in the judgment of the Commanding Officer of the corps will be sufficiently punished by a small fine,

he shall be liable to pay such fine, not exceeding 50 Rupees, as a Regimental Court Martial shall impose.

Punishment for non-payment of fine.

XX. If any member of such corps shall neglect or refuse to pay any fine to which he shall be sentenced by any Court Martial, within such time as shall be fixed by the Commanding Officer of the corps, he may be dismissed by the said Commanding Officer from the said corps; and every such dismissal shall be recorded and reported to the local Government.

Penalty for assaulting or resisting Volunteers in discharge of their duty.

XXI. Whoever assaults or resists, or abets within the meaning of the Indian Penal Code, any person in assaulting or resisting, any member of such corps in the discharge of his duty, shall be punishable, on conviction before a Magistrate, with fine not exceeding 200 Rupees, or with imprisonment for any term not exceeding six months, or with both.

Recovery of fines.

XXII. In default of payment of any fine imposed by a Court Martial under this Act, a copy of the sentence of the Court Martial imposing the fine, signed by the President of such Court, may be sent to a Magistrate in the Presidency Town or the District in which the fine shall have been imposed, who shall thereupon cause the fine to be recovered as if he had himself imposed it.

Fines imposed under Section 21 may be recovered, if for offences committed outside the limits of the Presidency Towns, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the police of such towns in force for the time being.

Powers of Volunteers.

XXIII. Any member of a corps of Volunteers, whenever he may be in discharge of his duty as a member of the corps and wheresoever he may then be, may disarm any person not being in Her Majesty's Military or Naval service or a Police officer, found between sunset and sunrise in any public street, thoroughfare, or other public place, armed with a sword, spear, gun, or other warlike instrument, without a pass or license for that purpose from the Commissioner of Police or other officer authorized by Government to grant the same;

Power to disarm persons.

and may also disarm any person found armed at any time contrary to law or to any order of Government in any public street, thoroughfare, or other public place;

and may also apprehend and deliver over to a Police officer any person so found armed in order that he may be dealt with according to law;

And to apprehend and deliver to Police.

and the weapon so seized shall be forfeited to Government or otherwise dealt with according to law, or to the orders of Government.

Forfeiture of weapons seized.

XXIV. Any member of such corps, whenever he is on duty, may prevent any disturbance of the public peace, and disperse any persons whom he may find assembled together to the number of five or more without reasonable cause between sunset and sunrise in any public street, thoroughfare, or other public place in which such member of the said corps may be in the discharge of his duty,

Power to prevent disturbances of the public peace.

To disperse unlawful assemblies.

and may also apprehend any person reasonably suspected of having committed, or being about to commit any offence against the State, or of having abetted within the meaning of the Indian Penal Code, or being about to abet, any other person in the commission of such offence; and deliver him over to some Police officer.

To apprehend certain suspected persons.

Miscellaneous.

XXV. Every mounted officer, and every mounted orderly of a corps of Volunteers, and every member of such corps, while he belongs to a troop of cavalry in such corps, shall be at liberty to keep one horse without being liable to pay in respect thereof any municipal or other tax imposed upon horses.

Exemption from horse-tax.

XXVI. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act or the said Act XXIII. of 1857, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

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THE EUROPEAN VAGRANCY ACT, 1869.

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ACT No. XXI. OF 1869.

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2. Commencement and extent of Act.
3. Interpretation Clause. "Person of European extraction". "Vagrant." "Master of a ship. "Magistrate."
4. Power to require apparent vagrant to go before Police Magistrate, or Justice of the Peace with full powers of a Magistrate.
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An Act to provide against European Vagrancy.

Preamble. Whereas numerous persons of European extraction are at present wandering in a destitute condition throughout India; and whereas such conduct is prejudicial to public order, and it is expedient to prevent the same; It is hereby enacted as follows:

PART I.

PRELIMINARY.

Short Title.

I. This Act may be called "The European Vagrancy Act, 1869."

Commencement and extent of Act.

II. Sections 3, 17, 18, 21, 22, 23, 27, 28, 30, 32, 33, and 34 shall come into operation at once, and shall extend to the whole of British India and to the dominions of Princes and States in India in alliance with Her Majesty:

Sections 25, 26, and 31 shall come into operation on the 1st day of January, 1870, and shall extend to the whole of British India and to the said dominions:

And the rest of this Act shall come into operation in such parts of British India and of the said dominions and on such day or respective days as the Governor-General of India in Council shall from time to time by notification in the *Gazette of India* appoint in this behalf.

Interpretation Clause.

III. In this Act—

"Person of European extraction"

"Person of European extraction" includes Americans and Australasians:

"Vagrant."

"Vagrant" means a person of European extraction found asking for alms, or wandering about without any employment or visible means of subsistence:

"Master of a ship."

"Master of a ship" includes any person in charge of a decked vessel:

"Magistrate"

And in Parts III. and V. of this Act "Magistrate" means, within the limits of the Towns of Calcutta, Madras and Bombay, a Magistrate of Police, and, outside those limits, a person exercising powers under the Code of Criminal Procedure not less than those of a Subordinate Magistrate of the first class.

PART II.

PROCEDURE.

Power to require apparent vagrant to go before Police Magistrate, or Justice of the Peace with full powers of a Magistrate.

IV. Any Police officer may, within the limits of the Towns of Calcutta, Madras and Bombay, require any person who is apparently a vagrant to accompany him or any other Police officer to and to appear before the nearest Magistrate of Police, and may, without those limits, require any such person to accompany him or any other Police officer to and to appear before the nearest Justice of the Peace exercising the full powers of a Magistrate under the Code of Criminal Procedure.

Summary enquiry into vagrant's circumstances.

V. The Magistrate of Police or Justice shall make a summary inquiry into the circumstances and character of the alleged vagrant; and if he is satisfied that such person is a vagrant, he shall record in his office a declaration to that effect.

Order to go to work-house.

If he is further of opinion that the vagrant is not likely to obtain employment at once, or if he has reason to believe that a declaration of vagrancy has on any former occasion been recorded in respect of such vagrant, he shall require the vagrant to go to a Government work-house and shall draw out an order to that effect.

The vagrant shall then be placed in charge of the police for the purpose of being forwarded to the work-house, and the said order shall be a sufficient authoritity to the Police for retaining him in their charge while he is on his way to the work-house, and to the governor of the work-house for receiving and detaining such vagrant.

Forwarding vagrant to place of employment.

VI. Where the officer making the inquiry mentioned in Section 5 is of opinion that the vagrant is likely to obtain employment in any place subject to the local Government or (when the vagrant is in any part of the said dominions) in any place subject to the nearest local Government, such officer may in his piscretion forward the vagrant to such place in charge of the Police and draw up an order to that effect.

Such order shall be a sufficient authority to the Police for retaining the vagrant in their charge while he is on his way to such place of employment.

Assistance to obtain employment.

VII. Upon his arrival at the place of employment, the vagrant shall be taken before the nearest Magistrate of Police or Justice of the Peace exercising full powers as aforesaid, to whom the order for transmission shall be delivered.

Such officer shall thereupon, to the best of his ability, assist the vagrant in seeking employment, and may in the meantime, if he think fit, keep the vagrant in the charge of the Police.

Should the vagrant fail to obtain suitable employment within a reasonable time not exceeding fifteen days from such arrival, such officer shall forward him to a Government work-house in the manner provided by Section 5.

Subsistence allowance.

VIII. Every person while in charge of the Police, whether before inquiry as to his vagrancy, or while he is on his way, under Section 5, to the work-house, or,under Section 6, to a place of employment, shall be entitled to an allowance for his subsistence at the rate of eight annas per diem.

The Magistrate of Police or Justice, before whom any vagrant is taken under Section 7, may, if he think fit, order the vagrant to receive a similar allowance while he is seeking employment.

The local Government shall cause such allowance to be paid out of such funds at its disposal and in such manner as it may from time to time direct.

Power to give certificates.

IX. Any Magistrate of Police or Justice of the Peace exercising full powers as aforesaid may, on being satisfied that any person of European extraction is not likely to become a vagrant, give such person a certificate under his hand stating that for a certain time (mentioning it) not exceeding six months from the date of the certificate, and within certain limits (mentioningthem), nothing in Sections 4, 5, 6 and 7 shall apply to the holder of such certificate; and thereupon (subject to the provisions contained in Sections 23 and 24) nothing in Sections 4, 5, 6, and 7, shall apply to such person for such time and within such limits as aforesaid.

Form of certificate.

Every such certificate shall be in the form set forth in the first schedule to this Act annexed, or as near thereto as circumstances will admit.

Power to invest Justices, District Superintendents of Police, &c., with jurisdiction of full power Justices under Part II.

X. The local Government may from time to time, by notification in the official Gazette, invest any Justice of Peace, District Superintendent of Police, or Assistant District Superintendent of Police, with the jurisdiction and powers conferred by this Part on a Justice of the Peace exercising full powers as aforesaid.

PART III.

GOVERNMENT WORK-HOUSES.

Provision of Government work-houses.

XI. The local Government, with the previous sanction of the Governor-General of India in Council, may provide work-houses, with their necessary furniture and establishment, at such places as it may think proper, for the temporary reception of vagrants,

or may by writing under the hand of a Secretary to such Government, certify any building, or part of a building, not provided as a work-house under the former part of this section, to be fit for a work-house for the purposes of this Act. Every such certificate shall be published in the local official Gazette, and thereupon such building or part of a building shall, until the local Government otherwise orders, be deemed a Government work-house under this Act.

Scale of diet.

The local Government shall allow the same scale of diet for the support of vagrants received in such work-houses as is for the time being allowed for Europeans confined in the local prisons or penitentiaries.

Superintendence of work-houses.

XII. Every such work-house shall be under the immediate charge of a governor, who shall be appointed and may be suspended or removed by the local Government.

Every such Governor shall, if the local Government think fit, be subject to the orders of a committee of management appointed from time to time by such Government, or, in the absence of a committee, to the orders of such officer as the local Government shall from time to time appoint in this behalf.

Search of vagrants.

XIII. Every such governor may order that any vagrant admitted to the work-house under his charge shall be searched and that the vagrant's bundles, packages and other effects shall be inspected, and may direct that any money then found with or on the vagrant, shall be applied (subject to the orders of the local Government) towards the expense of carrying this Act into execution, and may order that all or any of the said effects shall be sold, and that the produce of the sale be applied as aforesaid, but subject to the like orders.

Discipline.

XIV. Vagrants admitted to work-houses under this Act shall be subject to such rules of management and discipline, as may from time to time be prescribed by the local Government with the previous sanction of the Governor-General of India in Council.

Any vagrant who knowingly disobeys or neglects any such rule, shall, on conviction before a Magistrate, be punishable with rigorous imprisonment for a term which may extend to three months.

Refusal to accept employment.

XV. The governor and the Committee of Management (if any) of every such work-house shall use his and their best endeavours to obtain outside the work-house suitable employment for the vagrants admitted thereto.

When such employment is obtained, any such vagrant refusing or neglecting to avail himself thereof, shall, on conviction before a Magistrate, be punishable with rigorous imprisonment for a term which may extend to one month.

PART IV.

REMOVAL FROM INDIA.

Removal of vagrants.

Costs of removal.

XVI. If after the lapse of a reasonable time no suitable employment is obtainable for any such vagrant, the local Government may either (when he shall have entered into such agreement as hereinafter mentioned) cause him to be removed from British India in manner hereinafter provided, the cost of such removal being paid by Government;

or it may cause Sections 23 and 30 to be read to him and may then release him.

Agreements with vagrants.

XVII. Any vagrant or other person of European extraction may enter into an agreement in writing with the Secretary of State for India in Council, binding himself—

(a.) to proceed to such port in British India as shall be mentioned in the agreement;

(b.) there to embark on board such ship and at such time as shall be directed by an officer appointed in this behalf by the local Government of the territories in which such port is situate, for the purpose of being removed from India at the expense of the said Secretary of State in Council;

(c.) to remain on board such ship until she shall have arrived at her port of destination; and

(d.) not to return to India until five years shall have elapsed from the date of such embarkation.

Form of agreement.

Every such agreement may be on unstamped paper and shall be in the form set forth in the second schedule to this Act annexed, or as near thereto as circumstances will admit.

Power to perform agreement.

XVIII. The local Government of the territories in which the said port is situate may enter into such contracts for conveyance or otherwise, and perform such other acts as may be necessary to carry out such agreement on the part of the said Secretary of State in Council.

PART V.

Penalties.

Refusal to go before Police Magistrate or Justice.

XIX. Any person refusing or failing to accompany a Police officer to, or to appear before, a Magistrate of Police or Justice of the Peace, for the purpose of preliminary inquiry, when required so to do under Section

shall be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with imprisonment for a term which may extend to one month, or with fine, or with both.

Assaulting Police.

And any person who, when required, under Section 4, to accompany a Police officer to, or to appear before, a Magistrate of Police or Justice of the Peace, commits an offence punishable under Section 353 of the Indian Penal Code, may, whether he be or be not an European British subject, be tried by a Magistrate for such offence.

Escaping from Police

XX. Any vagrant escaping from the Police while committed to their charge under the orders specified in Sections 5 and 6,

Quitting work-house without leave

or leaving a work-house under this Act without permission from the governor,

shall for every such offence be punishable, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to two years.

Failing to proceed to port of embarkation.

XXI. Any person entering into an agreement under Section 17 and failing to proceed in pursuance thereof to the port therein mentioned,

Refusing to go on board ship.

or refusing to embark when directed so to do under the same Section,

Escaping from ship

or escaping from the ship in which he has so embarked before she shall have reached her port of destination.

shall for every such offence be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to six months.

Returning to India

XXII. Any person returning to India within five years of the date of his embarkation pursuant to any agreement entered into under Section 17 unless specially permitted so to do by the Secretary of State for India shall for every such offence be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term which may extend to two years.

Begging.

XXIII. Any person of European extraction found asking for alms when he has sufficient means of subsistence,

or asking for alms in a threatening or insolent manner,

or continuing to ask for alms of any person after he has been required to desist,

shall be punishable, whether he be or be not an European British subject, on conviction before a Magistrate, with rigorous imprisonment for a term not exceeding one month for the first offence, two months for the second, and three months for any subsequent offence.

Procedure on close of imprisonment.

XXIV. Every person imprisoned under Section 19, 20, 21, 22, or 23, shall, at the end of his term of imprisonment, be placed before the nearest Magistrate of Police or Justice of the Peace exercising full powers as aforesaid, who shall, if he think fit, forthwith deal with him in the manner prescribed by Sections 5 and 6.

The order of transmission shall certify the fact of the previous conviction.

Penalty on shipmaster bringing European convicts to India.

XXV. Every master of a ship landing or allowing to land in any part of British India any person of European extraction who has been convicted in any other part of Her Majesty's dominions of felony or of any offence which, if committed in England, would be felony, shall, on conviction before a Magistrate, be liable, for every person so landed or allowed to land, to pay a fine not exceeding 500 Rupees and not less than one 100 Rupees, and, in default of payment, to imprisonment for any term not exceeding two months,

unless the defendant shall satisfy the Magistrate by evidence (which the defendant is hereby declared competent to give), that he had made due enquiry as to the person so landed or allowed to land, and that he had no reason to believe that such person had been convicted as aforesaid.

Power to exempt certain shipmasters.

The Governor-General of India in Council may from time to time, by notification in the *Gazette of India*, exempt from the operation of the former part of this Section the masters of any class of ships, on such terms as to the said Governor-General in Council shall seem fit, and whether in respect of all or of any part of the persons on board such ships.

The said Governor-General in Council may in like manner revoke any exemption made under this Section.

Recovery of fines.

XXVI. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the Towns of Calcutta, Madras and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

Payment of fines.

All fines recovered under this Act shall be paid to the credit of the Government of India, or as such Government shall from time to time direct.

Prosecutions.

XXVII. All prosecutions under this Act may be instituted and conducted by such officer as the local Government shall from time to time appoint.

Limits of jurisdiction.

XXVIII. In imposing penalties under this Part and Part III of this Act, no person shall exceed the limits of jurisdiction prescribed for him by the Code of Criminal Procedure in the case of offenders not being European British subjects.

Validity of proceedings where Police Magistrate or Justice is not the nearest.

XXIX. No proceeding under this Act shall be deemed invalid by reason only that the Magistrate of Police or Justice, before whom a person apparently a vagrant was required to appear, or before whom a person was placed under Section 24, was not the nearest.

PART VI.

MISCELLANEOUS.

Deprivation of privileges of European British subjects under Criminal Procedure Code.

XXX. Any European British subject who, upon the summary enquiry mentioned in Section 5, has been determined to be a vagrant, or who has been convicted under Section 22 or Section 23, shall, so long as he remains in India, be subject, beyond the limits of the said towns, to the provisions of the Code of Criminal

Procedure (other than those contained in Chapter XIX of the same Code) applicable to an European not being a British subject.

If from any cause he is committed or held to bail by a Justice of the Peace to take his trial before a High Court, he shall not be at liberty to object to the jurisdiction of such Justice of the Peace or High Court on the ground of anything contained in the former part of this Section.

An office copy of the declaration recorded under Section 5, shall be *prima facie* evidence that the European British subject named therein has been, upon such enquiry, determined to be a vagrant.

Liability of importers of Europeans or employers of soldiers becoming vagrants.

XXXI. Whenever any person of European extraction lands in India,

or, being a Non-Commissioned Officer or Soldier in Her Majesty's army, leaves that army in India,

under an engagement to serve any other person, or any Company, Association or Body of persons in any capacity,

and becomes chargeable to the State as a vagrant within one year after his arrival in India or leaving the army, as the case may be, then the person, or Company, Association or Body, to serve whom he has so landed in India or left the army, shall be liable to pay to the Government the cost of his removal under this Act and all other charges incurred by the State in consequence of his becoming a vagrant.

Recovery of charges.

Such costs and charges shall be recoverable by suit as if an express agreement to repay them had been entered into with the Secretary of State for India in Council, by the person, Company, Association or Body chargeable.

Exercise of powers conferred on local Government.

XXXII. The powers and duties conferred and imposed by Sections 16 and 18 on a local Government may be exercised and performed by such class of officers as the local Government shall from time to time, by notification in the official Gazette, appoint in this behalf.

Exercise in Native States of powers conferred on Magistrates, Justices and Police.

XXXIII. The powers and duties conferred and imposed by this Act on Magistrates, Justices of the Peace exercising the full powers of a Magistrate, and police officers respectively may, in places beyond the limits of British India, be exercised and performed by such persons respectively as the Governor-General of India in Council shall from time to time, by notification in the *Gazette of India*, appoint in this behalf.

Power to make rules for guidance of officers.

XXXIV. The Governor-General of India in Council may from time to time make rules consistent with this Act for the guidance of officers in matters connected with its enforcement.

All such rules shall be published in the *Gazette of India.*

THE FIRST SCHEDULE.

(*See Section* 9.)

Whereas *E. F*, of————————, a person of European extraction, and holder of this certificate, has appeared before me and satisfied me that he is not likely to become a vagrant within the meaning of the European Vagrancy Act, 1869, THESE ARE TO certify that for the space of ———months from the date hereof and within the Province [*or* District] of————nothing in Sections 4, 5, 6 and 7 of the same Act shall be deemed to apply to him, unless he is found asking for

alms when he has sufficient means of subsistence, or asking for alms in a threatening or insolent manner, or continuing to ask for alms of any person after he has been required to desist: IN ANY OF WHICH CASES he shall be liable to be imprisoned and otherwise dealt with as provided in Sections 23 and 24 of the said Act.

Dated this————day of ———— 187.—

(Signed) *G. H.*

Magistrate of Police for the Town of————*or* Justice of the Peace for————exercising the full powers of a Magistrate.

THE SECOND SCHEDULE.

(*See Section* 17.)

ARTICLES OF AGREEMENT made this————day of———— 18——BETWEEN the Secretary of State for India in Council of the one part and *C. D.* of &c., [*the vagrant*] of the other part: Each of the parties hereto (so far as relates to the acts on his own part to be performed) hereby agrees with the other of them as follows:—

1. The said *C. D.* shall proceed forthwith to the port of [*the port of embarkation.*]

2. The said *C. D.* shall there embark on board such ship and at such time as an officer appointed in this behalf by the local Government shall direct.

3. The said *C. D.* shall remain on board such ship until she shall have arrived at her port of destination.

4. The said *C. D.* shall not return to India until five years shall have elapsed from the date of such embarkation, unless specially permitted so to return by the said Secretary of State.

5. The said Secretary of State in Council shall defray the cost of the transit of the said *C. D.* to the said port, and of his lodging and subsistence during such transit and during his detention (if any) at the same port, and shall contract with the owner of the said ship or his agent for the passage of the said *C. D.* on board the said ship, and for his subsistence during the voyage for which he shall embark as aforesaid.

IN WITNESS whereof *A. B.* (by order of the Governor-General of India in Council [*or* the Governor of————in Council *or* the Lieutenant-Governor of————, *or* the Chief Commissioner of————], on behalf of the said Secretary of State in Council), and the said *C. D.* have hereunto set their hands the day and year first above written.

ACT No. XXII. OF 1869.

1. Short Title.
2, and 3. Repealed.
4. Gáro Hills removed from operation of General Regulations and Acts.
5. Administration of justice and settlement and collection of revenue vested in certain officers.
6. Place of imprisonment or transportation.
7. Power to prevent private collection of cesses. Compensation.
8. Power to extend laws to Gáro Hills.
9. Power to extend Act to Jintiá and Nága Hills, and to British portion of Khási Hills.
10. Questions of disputed boundary.

An Act to remove the Gáro Hills from the jurisdiction of the tribunals established under the General Regulations and Acts, and for other purposes.

Preamble. Whereas it is expedient to remove the territory commonly known as the Gáro Hills from the jurisdiction of the Civil, Criminal and Revenue Courts and offices established under the General Regulations and Acts, and to provide for the administration of justice and the collection of revenue in the said territory; It is hereby enacted as follows:

Short Title. I. This Act may be called "The Gáro Hills Act, 1869."

II. and III. Repealed by the Repealing Act XIV., 1870.

IV. Save as hereinafter provided, the territory known as the Gáro

Gáro Hills removed from operation of General Regulations and Acts.

Hills bounded on the north and west by the District of Gawalpara, on the south by the District of Mymensingh as defined by the Revenue Survey, and on the east by the Khási Hills, is hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature and from the control of the offices of revenue constituted by the Regulations of the Bengal Code and the Acts passed by the Legislature now or heretofore established in British India, as well as from the law prescribed for the said Courts and offices by the Regulations and Acts aforesaid:

And no Act hereafter passed by the Council of the Governor-General for making Laws and Regulations shall be deemed to extend to any part of the said territory unless the same be specially named therein.

Administration of justice and settlement and collection of revenue vested in certain officers.

V. The administration of Civil and Criminal justice and the superintendence of the settlement and realization of the public revenue and of all matters relating to rent within the said territory, are hereby vested in such officers as the said Lieutenant-Governor may, for the purpose of tribunals of first instance or of reference and appeal, from time to time appoint. The officers so appointed shall, in the matter of the administration and superintendence aforesaid, be subject to the direction and control of the said Lieutenant-Governor and be guided by such instructions as he may from time to time issue.

Place of imprisonment or transportation.

VI. Any person liable to be imprisoned in any civil or criminal jail or to be transported beyond sea, under any order or sentence passed by any officer of Court empowered as provided in this Act, may be imprisoned in any civil or criminal jail, or transported to any place, which the said Lieutenant-Governor may direct.

Power to prevent private collection of cesses.

VII. The said Lieutenant-Governor may prevent, by such means as he shall think fit, the collection by zemindars or other persons of any cesses, tributes, or exactions on whatsoever pretence the same may be levied, from the inhabitants of the said territory, and may make arrangements either for the remission of such cesses, tributes and exactions, or for their collection direct by the officers of Government, making such compensation to zemindars or others justly entitled thereto, for the relinquishment of the same, as may to him seem proper.

Compensation.

Power to extend laws to Gáro Hills.

VIII. The said Lieutenant-Governor may, from time to time, by notification in the *Calcutta Gazette*, extend to the said territory any law, or any portion of any law now in force in the other territories subject to his government, or which may hereafter be enacted by the Council of the Governor-General or of the said Lieutenant-Governor for making Laws and Regulations,

and may on making such extension direct by whom any powers or duties incident to the provisions so extended shall be exercised or performed, and make any order which he shall deem requisite for carrying such provisions into operation.

Power to extend Act to Jintiá and Nága Hills, and to British portion of Khási Hills.

IX. The said Lieutenant-Governor may, from time to time, by notification in the *Calcutta Gazette*, extend, *mutatis mutandis*, all or any of the provisions contained in the other Sections of this Act to the Jintiá Hills, the Nága Hills, and to such portion of the Khási Hills as for the time being forms part of British India.

Every such notification shall specify the boundaries of the territories to which it applies.

Questions of disputed boundary.

X. Whenever a question arises whether any place falls within the boundary of the territory described in Section 4 or within the boundary of any of the territories to which provisions of this Act may be extended under Section 9, such officers as the said Lieutenant-Governor shall from time to time appoint, may consider and determine on which side of the boundary such place may lie, and the order made thereon by such officer shall be final.

Act No. XXIV. of 1869.

An Act to enhance the price of Salt in the Presidency of Fort St. George and the duty on Salt in the Presidency of Bombay.

Preamble.

Whereas it is expedient to enhance the price of salt manufactured and sold in the Presidency of Fort St. George and the duty leviable on salt manufactured in or imported into the Presidency of Bombay; It is hereby enacted as follows:

I. *Repealed by the Repealing Act XIV.*, 1870.

Price of salt in Madras.

II. The price to be paid to the local Government for salt manufactured and sold under the orders of the Governor of the Presidency of Fort St. George in Council for consumption within the territories subordinate to that Presidency, shall be two rupees for every maund of three thousand two hundred tolas weight of salt;

Duty on salt in Bombay.

And an excise duty of one rupee and thirteen annas per maund of three thousand two hundred tolas shall be leived on salt manufactured in, and a customs duty of one rupee and thirteen annas per maund of three thousand two hundred tolas shall be levied on the salt imported either by sea or by land into any part of the Presidency of Bombay.

Saving of duty in Sindh.

III. Nothing hereinbefore contained shall affect any duty now leviable on salt in the province of Sindh.

Act No. XXV. of 1869.

1. Power to make rules for manufacture of salt.
2. Duty on manufactured salt.
3. Power to make rules for collection of duty.
4. Publication of rules.
5. Penalties.

An Act to provide Rules for the manufacture, storing and sale of Alimentary Salt in the North-Western Provinces, the Punjab, Oudh and the Central Provinces, and for other purposes.

Preamble.

Whereas it is expedient to provide rules for the manufacture, storing, and sale of alimentary salt in the territories for the time being respectively under the governments of the Lieutenant-Governors of the North-Western Provinces of the Presidency of Fort William and of the Punjab and the administrations of the Chief Commissioners of Oudh and the Central Provinces. And whereas it is also expedient to impose a duty on salt manufactured in the said territories and to provide rules for the collection of such duty; It is hereby enacted as follows:

I. The local Government may, with the previous sanction of the

Power to make rules for manufacture of salt.

Governor-General of India in Council, from time to time prescribe rules for the manufacture, storing and sale of alimentary salt in the said territories or any part thereof:

Provided that such rules are consistent with Act XIV. of 1843 *(for regulating the levy of Customs Duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal)*, Act XXXVI. of 1855 *(to empower Officers of Customs and Land Revenue to search Houses and other enclosed places for contraband Salt in the North-Western Provinces)*, Act XIX. of 1862 *(to extend to the Province of Oudh certain provisions of Acts XIV. of* 1843 *and XXXVI. of* 1855 *relating to the manufacture of contraband Salt, and to amend the last-named Act)*, and Act VII. of 1864 *(for regulating the importation and manufacture of Alimentary Salt, in the Territories administerd by the Chief Commissioner of the Central Provinces)*.

Duty on manufactured salt.

II. The Governor-General of India in Council may order the levy of a duty on salt manufactured in any of the said territories, and may from time to time alter such duty: Provided that it shall not exceed three rupees per maund of three thousand two hundred tolas.

Power to make rules for collection of duty.

III. The local Government may, with the previous sanction of the Governor-General in Council, from time to time prescribe rules for the collection of the said duty in such manner and at such places as shall seem fit.

Publication of rules.

IV. All rules made under this Act shall be published in the local official Gazette, and shall thereupon have the force of law.

Penalties.

V. Whoever knowingly violates any such rule, and whoever abets, within the meaning of the Indian Penal Code, any person in violating any such rule, shall be punishable on conviction before a Magistrate with fine not exceeding 500 Rupees, or with imprisonment for any term not exceeding six months, or with both:

Provided that, in imposing penalties under this Section, no Magistrate shall exceed the limits of jurisdiction prescribed for him by the Code of Criminal Procedure.

ACT No. XXVI. OF 1869.

An Act to correct a clerical error in Act VIII. of 1863.

Preamble.

Whereas Act VIII. of 1863 *(for the amendment of the law relating to the confinement of Prisoners sentenced by Courts acting under the authority of Her Majesty, and by certain other Courts, and of Prisoners convicted of offences in Native States)*, Section 2, enacts that "Officers in charge of Jails within the British Territories in India shall be competent to give effect to any sentence which shall be passed by any Court or Tribunal acting under the authority of Her Majesty, or of the Government of India, or of any local Government, although such Court be *not* situate in a place not subject to the General Regulations;"

And whereas it is expedient to correct the clerical error hereinbefore indicated by italics; It is hereby enacted as follows:

Amendment of Act VIII. of 1863, Sec. 2.

I. The said Section shall be read as if, for the phrase "be not situate," the phrase "be situate" were substituted.

ACT No. I. OF 1870.

An Act to provide Rules relating to Quarantine.

Preamble.

Whereas it is expedient to empower expressly the Governor-General of India in Council and the local Governments to make rules relating to quarantine; It is hereby enacted as follows:

Power to make quarantine rules.

I. It shall be lawful for the Governor-General of India in Council and (with the previous sanction of the said Governor-General in Council) for the local Governments respectively, from time time, to make rules

for putting any vessel into a state of quarantine;

for regulating the intercourse of vessels in a state of quarantine with the shore, or with other vessels; and

for regulating the intercourse between ports where an infectious disease prevails and other ports.

Quarantine rules to be deemed rules under section 271 of Penal Code.

II. All such rules shall be published in the *Gazette of India* and also in the local Gazette, and shall thereupon be deemed to be rules made and promulgated under Section 271 of the Indian Penal Code.

ACT No. II. OF 1870.

An Act to provide for the appointment of additional Subordinate Judges and Munsifs in the Presidency of Fort William.

Preamble.

Whereas, by Act XVI. of 1868 *(to consolidate and amend the law relating to Principal Sadr Amins, Sadr Amins and Munsifs in Bengal, and for other purposes)*, the local Government is empowered to appoint a person to the office of Subordinate Judge or Munsif only on the occurrence of a vacancy in such office, and it is expedient to provide for the appointment of persons to such offices in addition to the appointments made under that Act; It is hereby enacted as follows:

Power to appoint additional Subordinate Judges and Munsifs.

I. Whenever it appears expedient to the said local Government to appoint a person to the office of Subordinate Judge or Munsif in addition to the Subordinate Judges and Munsifs appointed under the said Act,

in the case of a Subordinate Judge, the local Government may appoint,

and, in the case of a Munsif, the High Court of Judicature shall nominate, and the local Government shall appoint,

such person as the local Government or the High Court (as the case may be) shall think fit:

Qualifications of persons appointed.

Provided that no person shall be so nominated to the office of Munsif unless he possesses the qualifications prescribed by the rules made under Section 5 of the said Act.

Persons appointed to be deemed Subordinate Judges or Munsifs under Act XVI. of 1868.

II. Every Subordinate Judge and Munsif so appointed, shall be deemed a Subordinate Judge or Munsif, as the case may be, under the said Act.

Previous sanction of Governor-General in Council.

III. Nothing in this Act shall authorize the local Government to increase the number of Subordinate Judgeships and Munsifships without the previous sanction of the Governor-General of India in Council.

ACT No. III. OF 1870.

1. Short Title.
2 Repeal of Ordinance.
3. Extent of Act
4. Agror Valley removed from operation of General Regulations and Acts.
5. Administration of justice and settl ment and collection of revenue.
6 Place of imprisonment or transportation.
7. Power to extend laws
8. Questions of disputed boundary.

An Act to remove the Agror Valley from the jurisdiction of the tribunals established under the General Regulations and Acts, and for other purposes.

Preamble.

Whereas it is expedient to remove the territory known as the Agror Valley from the jurisdiction of the tribunals established under the General Regulations and Acts, and to provide for the administration of justice and the collection of revenue in the said territory; It is hereby enacted as follows:

Short Title.

I. This Act may be called "The Agror Valley Act, 1870."

Repeal of ordinance.

II. The Ordinance of the 4th day of October, 1869, "to remove the Agror Valley from the jurisdiction of the tribunals established under the General Regulations and Acts, and for other purposes," is hereby repealed.

Extent of Act

III. The said territory shall be deemed to include such portions of the Districts of Hazára, Attok and Ráwalpindí, as the Lieutenant-Governor of the Punjab has appointed for the purposes of the said Ordinance, or shall from time to time appoint for the purposes of this Act.

Agror Valley removed from operation of General Regulations and Acts.

IV. Save as hereinafter provided, the territory known as the Agror Valley is hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the offices of revenue constituted by the Rules, Regulations and Acts in force in the territories under the control of the said Lieutenant-Governor, as well as from the law prescribed for the said Courts and offices by the Rules, Regulations and Acts aforesaid;

and no Act hereafter passed by the Council of the Governor-General for making Laws and Regulations, shall be deemed to extend to any part of the said territory, unless the same be specially named therein.

Administration of justice and settlement and collection of revenue.

V. The administration of civil and criminal justice within the said territory, and the superintendence of the settlement and realization of the public revenue and of all matters relating to the peace and good government of the same territory, and to rent payable therein, are hereby vested in such officers as the said Lieutenant-Governor may, for the purpose of tribunals of first instance or of reference and appeal, from time to time appoint.

The officers so appointed shall, in the matter of the administration and superintendence aforesaid, be subject to the direction and control of the said Lieutenant-Governor, and be guided by such instructions as he may from time to time issue.

Place of imprisonment or transportation.

VI. Any person liable to be imprisoned in any civil or criminal jail, or to be transported beyond sea under any order or sentence passed by any officer or court empowered as provided in this Act, may be imprisoned in any

civil or criminal jail, or transported to any place which the said Lieutenant-Governor may direct.

Power to extend laws.

VII. The said Lieutenant-Governor may from time to time, by notification in the official Gazette, extend to the said territory any law, or any portion of any law, now in force in the other territories subject to his government, or which may hereafter be enacted by the Council of the Governor-General for the purpose of making Laws and Regulations;

and may, on making such extension, direct by whom any powers or duties incident to the provisions so extended shall be exercised or performed, and make any order which he shall deem requisite for carrying such provisions into operation.

Questions of disputed boundary.

VIII. Whenever a question arises whether any place falls within the boundary of the said territory, such officer as the said Lieutenant-Governor shall from time to time appoint may consider and determine on which side of the boundary such place lies, and the order made thereon by such officer shall be final.

Act No. IV. of 1870.

An Act for investing the Assistant Commissioner in charge of the Kullu Sub-division of the Kángra District with certain appellate powers.

Preamble.

Whereas it is expedient to invest the Assistant Commissioner in charge of the Kullu Sub-division of the Kángra District with certain appellate powers in civil cases;

It is hereby enacted as follows:

Assistant Commissioner of Kullu may hear appeals.

I. Notwithstanding anything contained in Act XIX. of 1865 (*to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies*) the Assistant Commissioner or other officer for the time being in charge of the parganas of Kullu, Seoráj, Lahoul and Spití, commonly called the Kullu Sub-division of the Kángra District, may hear appeals in civil cases from the decisions and orders of the Tahsíldár of Sultánpúr, the Tahsíldár of Plach, the Négí of Lahoul, and the Nono of Spití.

Appeal from Assistant Commissioner's orders.

II. An appeal shall lie from the decisions and orders of such Assistant Commissioner or other officer as aforesaid, to the Commissioner of the Division, in like manner as though such decisions or orders had been given by the Deputy Commissioner of the District, and the provisions of Act VII. of 1868 (*to amend the law relating to Appeals and Reviews of Judgment in the Punjab*) with reference to the Deputy Commissioner, shall be held to apply to such Assistant Commissioner or other officer as aforesaid.

Commencement and continuance of Act.

III. This Act shall come into operation on the 1st day of March, 1870, in regard to all cases pending or liable to appeal in the Courts of the Tahsíldár of Sultánpúr, the Tahsíldár of Plach, the Négí of Lahoul, and the Nono of Spití on that date, and shall remain in force until the 30th day of April, 1873, and, in the case of any appeal preferred before the 30th day of April, 1873, until such appeal has been disposed of.

SECRETARIAT LIBRARY

ACT No. V. OF 1870.

An Act to enable the High Courts at the Presidency Towns to deal with costs of petitions for certain monies transferred to Government.

Preamble.

Whereas the High Courts of Judicature at Fort William, Madras and Bombay have no power to deal with the costs of petitions under Section 4 of Act XXV. of 1866 *(to transfer to the Government of India certain securities and monies deposited in the High Courts of Judicature at Fort William, Madras and Bombay and in the Supreme Court of the Straits' Settlement, and the proceeds of certain estates in the charge of the Adminstrator General of Bengal)*, or under Section 60 of the Adminstrator General's Act, 1867, for payment of certain securities, monies or proceeds transferred to Government; And whereas it is expedient to confer such power upon the said High Courts; It is hereby enacted as follows:—

Power to direct by whom costs are to be paid.

I. Whenever any of the said Courts shall make an order on any such petition, the Court may direct by whom the whole or any part of the costs of each party are to be paid.

ACT No. VI. OF 1870.

An Act to enable the Governor-General in Council to increase the fee payable under Section 31 of the Emigration Act.

Preamble.

Whereas, under Section 9 of Act VI. of 1869 *(to amend the law relating to the emigration of Native Labourers)*, the Governor-General of India in Council is empowered to increase any fee payable under Sections 19, 27, and 34 of Act XIII. of 1864 *(to consolidate and amend the law relating to the emigration of Native Labourers)*; And whereas it is expedient that he should also be empowered to increase the fee payable under Section 31 of the same Act; It is hereby enacted as follows:

Power to increase fees payable under Act XIII. of 1864, Section 31.

I. The Governor-General of India in Council may from time to time, by notification in the *Gazette of India*, increase any fee payable under Section 31 of the said Act XIII. of 1864, and may also in like manner reduce to its present amount any fee so increased: Provided that no fee shall be increased under this Section by more than double such amount.

ACT No. VII. OF 1870.

CHAPTER I.

PRELIMINARY.

1. Short Title. Extent of Act. Commencement of Act.
2. Repealed.

CHAPTER II.

FEES IN THE HIGH COURTS AND IN THE COURTS OF SMALL CAUSES AT THE PRESIDENCY TOWNS.

3. Levy of fees in High Courts on their original sides. Levy of fees in Presidency Small Cause Courts.
4. Fees on documents filed, &c., in High Courts in their extraordinary jurisdiction. In their appellate jurisdiction. As Courts of reference and revision.
5. Procedure in case of difference as to necessity or amount of fee.

CHAPTER III.

FEES IN OTHER COURTS AND IN PUBLIC OFFICES.

6. Fees on documents filed, &c., in Mofussil Courts or in public offices.
7. Computation of fees payable in certain suits: (1.) For money. (2.) For maintenance and annuities. (3). For other moveable property having a market-value. (4) *a*. For moveable property of no

Computation of fees payable in certain suits.

VII. The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows :—

for money.

1 In suits for money (including suits for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically)—according to the amount claimed :

for maintenance and annuities :

2. In suits for maintenance and annuities or other sums payable periodically—according to the value of the subject-matter of the suit, and such value shall be deemed to be ten times the amount claimed to be payable for one year :

for other moveable property having a market-value :

3. In suits for moveable property other than money, where the subject-matter has a market-value —according to such value at the date of presenting the plaint :

4. In suits—

for moveable property of no market-value :

(*a*) for moveable property where the subject-matter has no market-value, as for instance, in the case of documents relating to title,

to enforce a right to share in joint family property :

(*b*) to enforce the right to share in any property on the ground that it is joint family property,

for a declaratory decree and consequential relief :

(*c*) to obtain a declaratory decree or order, where consequential relief is prayed,

for an injunction :

(*d*) to obtain an injunction,

for easements :

(*e*) for a right to some benefit (not herein otherwise provided for) to arise out of land, and

for accounts :

(*f*) for accounts—

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

In all such suits the plaintiff shall state the amount at which he values the relief sought, and the provisions of the Code of Civil Procedure, Section 31, shall apply as if, for the word 'claim,' the words 'relief sought,' were substituted.

for possession of land, houses amd gardens.

5. In suits for the possession of land, houses and gardens—according to the value of the subject-matter ; and such value shall be deemed to be—

where the subject-matter is land, and—

(*a*) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government,

or forms part of such an estate and is recorded in the Collector's register as separately assessed with such revenue,

and such revenue is permanently settled—

ten times the revenue so payable :

(*b*) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid ;

and such revenue is settled, but not permanently—five times the revenue so payable :

(*c*) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue,

and nett profits have arisen from the land during the year next before the date of presenting the plaint—

fifteen times such nett profits:

but where no such nett profits have arisen therefrom—the amount at which the Court shall estimate the land with reference to the value of similar land in the neighbourhood:

(*d*) where the land forms part of an estate paying revenue to Government, but is not a definite share of such estate and is not separately assessed as above-mentioned—the market-value of the land:

Proviso as to Bombay Presidency.

Provided that, in the territories subject to the Governor of Bombay in Council, the value of the land shall be deemed to be—

(1) where the land is held on settlement for a period not exceeding thirty years and pays the the full assessment to Government—a sum equal to five times the survey-assessment:

(2) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment to Government—a sum equal to ten times the survey-assessment; and

(3) where the whole or any part of the annual survey-assessment is remitted—a sum computed under paragraph (1) or paragraph (2) of this proviso, as the case may be, in addition to ten times the assessment, or the portion of assessment, so remitted:

Explanation.—The word 'estate,' as used in this paragraph, means any land subject to the payment of revenue, for which the proprietor or a farmer or ryot shall have executed a separate engagement to Government, or which, in the absence of such engagement, shall have been separately assessed with revenue.

for houses and gardens:

(*e*) Where the subject-matter is a house or garden—according to the market-value of the house or garden:

to enforce a right of pre-emption:

6. In suits to enforce a right of pre-emption—according to the value (computed in accordance with paragraph 5 of this section) of the land, house or garden in respect of which the right is claimed:

for interest of assignee of land-revenue:

7. In suits for the interest of an assignee of land-revenue—fifteen times his nett profits as such for the year next before the date of presenting the plaint:

to set aside an attachment;

8. In suits to set aside an attachment of land or of an interest in land or revenue—according to the amount for which the land or interest was attached:

Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest:

to redeem:

9. In suits againt a mortgagee for the recovery of the property mortgaged,

to foreclose:

and in suits by a mortgagee to foreclose the mortgage,

or, where the mortgage is made by conditional sale, to have the sale declared absolute—

according to the principal money expressed to be secured by the instrument of mortgage:

for specific performance:

10. In suits for specific performance—

(*a*) of a contract of sale—according to the amount of the consideration:

(*b*) of a contract of mortgage—according to the amount agreed to be secured:

(*c*) of a contract of lease—according to the aggregate amount of the fine or premium (if any) and of the rent agreed to be paid during the first year of the term:

(*d*) of an award—according to the amount or value of the property in dispute;

between landlord and tenant.

11. In the following suits between landlord and tenant:—

(*a*) for the delivery by a tenant of the counterpart of a lease,

(*b*) to enhance the rent of a tenant having a right of occupancy,

(*c*) for the delivery by a landlord of a lease,

(*d*) to contest a notice of ejectment,

(*e*) to recover the occupancy of land from which a tenant has been illegally ejected by the landlord, and

(*f*) for abatement of rent—

according to the amount of the rent of the land to which the suit refers, payable for the year next before the date of presenting the plaint.

Fee on memorandum of appeal against order relating to compensation.

VIII. The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the acquisition of land for public purposes, shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.

Power to ascertain nett profits or market-value.

IX. If the Court sees reason to think that the annual nett profits or the market-value of any such land, house or garden as is mentioned in Section 7, paragraphs 5 and 6, have or has been wrongly estimated, the Court may, for the purpose of computing the fee payable in any suit therein mentioned, issue a commission to any proper person directing him to make such local or other investigation as may be necessary, and to report thereon to the Court.

Procedure where nett profits or market-value wrongly estimated.

X. 1. If in the result of any such investigation the Court finds that the nett profits or market-value have or has been wrongly estimated, the Court, if the estimation has been excessive, may in its discretion refund the excess paid as such fee: but if the estimation has been insufficient, the Court shall require the plaintiff to pay so much additional fee as would have been payable had the said market-value or nett profits been rightly estimated:

2. In such case the suit shall be stayed until the additional fee is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed:

3. Section 180 of the Code of Civil Procedure shall be construed as if the words 'the market-value of any property or' were inserted after the word 'ascertaining,' and as if the words 'or annual nett profits' were inserted after the word 'damages.'

Procedure in suits for mesne profits or account when amount decreed exceeds amount claimed.

XI. In suits for mesne profits or for immoveable property and mesne profits, or for an account, if the profits or amount decreed are or is in excess of the profits claimed or the amount at which the plaintiff valued the relief sought, the decree shall not be executed until the difference between the fee actually paid

and the fee which would have been payable had the suit comprised the whole of the profits or amount so decreed shall have been paid to the proper officer.

Where the amount of mesne profits is left to be ascertained in the course of the execution of the decree, if the profits so ascertained exceed the profits claimed, the further execution of the decree shall be stayed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits so ascertained is paid. If the additional fee is not paid within such time as the Court shall fix, the suit shall be dismissed.

Decision of questions as to valuation.

XII. 1. Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this Chapter on a plaint or memorandum of appeal, shall be decided by the Court in which plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit.

2. But whenever any such suit comes before a Court of appeal, reference or revision, if such Court considers that the said question has been wrongly decided, to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided, and the provisions of Section 10, paragraph ii, shall apply.

Refund of fee paid on memorandum of appeal.

XIII. If an appeal or plaint, which has been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure, is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in Section 351 of the same Code, for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of fee paid on the memorandum of appeal:

Provided that, if, in the case of a remand in appeal, the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorize the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

Refund of fee on application for review of judgment.

XIV. Where an application for a review of judgment is presented on or after the ninetieth day from the date of the decree, the Court, unless the delay was caused by the applicant's laches, may, in its discretion, grant him a certificate authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before such day.

Refund where Court reverses or modifies its former decision on ground of mistake.

XV. Where an application for a review of judgment is admitted, and where, on the re-hearing, the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorizing him to receive back from the Collector so much of the fee paid on the plaint or memorandum of appeal as exceeds the fee payable on any other application to such Court under the second schedule to this Act, No. 1, clause (*b*) or clause (*d*).

But nothing in the former part of this section shall entitle the

applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

Additional fee where respondent takes objection to unappealed part of decree.

XVI. When any appeal is presented to a Civil Court, not against the whole of a decision, but only against so much thereof as relates to a portion of the subject-matter of the suit, and, on the hearing of such appeal, the respondent takes, under Section 348 of the Code of Civil Procedure, an objection to any part of the said decision other than the part appealed against, the Court shall not hear such objection until the respondent shall have paid the additional fee which would have been payable had the appeal comprised the part of the decision so objected to.

Multifarious suits.

XVII. Where a suit embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act.

Nothing in the former part of this Section shall be deemed to affect the power conferred by the Code of Civil Procedure, Section 9.

Written examinations of complainants.

XVIII. When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police officers may arrest without a warrant, and who has not already presented a petition on which a fee has been levied under this Act, is reduced to writing under the provisions of the Code of Criminal Procedure, the complainant shall pay a fee of eight annas, unless the Court thinks fit to remit such payment.

Exemption of certain documents.

XIX. Nothing contained in this Act shall render the following documents chargeable with any fee :—

1. Power-of-attorney to institute or defend a suit when executed by an officer, warrant-officer, non-commissioned officer or private of Her Majesty's army not in civil employment.

2. Declarations mentioned in Section 118 and Section 164 of the Code of Civil Procedure.

3. Written statements called for by the Court after the first hearing of a suit.

4. Plaint presented to a Military Court of Requests and petition for execution of a decree of such Court.

5. Plaints in suits tried by Village Munsifs in the Presidency of of Fort St. George.

6. Plaints and processes in suits before District Panchayets in the same Presidency.

7. Plaints in suits before Collectors under Madras Regulation XII. of 1816.

8. Probate of a will, letters of administration, and certificate mentioned in the first schedule to this Act annexed, No. 12, where the amount or value of the property in respect of which the probate or letters or certificate shall be granted does not exceed 1,000 Rupees.

9. Application or petition to a Collector or other officer making a settlement of land-revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matters connected with the assessment of

land or the ascertainment of rights thereto or interests therein, if presented previous to the final confirmation of such settlement.

10. Application relating to a supply for irrigation of water belonging to Government.

11. Application for leave to extend cultivation, or to relinquish land, when presented to an officer of land-revenue by a person holding, under direct engagement with Government, land of which the revenue is settled but not permanently.

12. Application for service of notice of relinquishment of land or of enhancement of rent.

13. Written authority to an agent to distrain.

14. First application (other than a petition containing a criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in Court.

15. Bail-bonds in criminal cases, recognizances to prosecute or give evidence, and recognizances for personal appearances or otherwise.

16. Petition, application, charge, or information respecting any offence, when presented, made or laid to or before a Police Officer, or to or before the Heads of Villages or the Village Police in the territories respectively subject to the Governors in Council of Madras and Bombay.

17. Petition by a prisoner, or other person in duress or under restraint of any Court or its officers.

18. Complaint of a public servant (as defined in the Indian Penal Code), a municipal officer, or an officer or servant of a Railway Company.

19. Application for permission to cut timber in Government forests, or otherwise relating to such forests.

20. Application for the payment of money due by Government to the applicant.

21. Petition of appeal against the chowkídarí assessment under Act XX. of 1856, or against any municipal tax.

22. Applications for compensation under any law for the time being in force relating to the acquisition of property for public purposes.

23. Petitions presented to the Special Commissioner appointed under Bengal Act II. of 1869 *(to ascertain, regulate and record certain tenures in Chota Nagpore.)*

24. Petitions under the 14th and 15th Victoria, Chapter 40 (*An Act for Marriages in India*), Section 5, or under Act V. of 1852, Section 9.

CHAPTER IV.

PROCESS-FEES.

Rules as to costs of processes.

XX. The High Court shall, as soon as may be make rules as to the following matters :—

(1.) the fees chargeable for serving and executing processes issued by such Court in its appellate jurisdiction, and by the other Civil and Revenue Courts established within the local limits of such jurisdiction :

(2.) The fees chargeable for serving and executing processes issued by the Criminal Courts established within such limits in the case of

offences other than offences for which police officers may arrest without a warrant; and

(3.) The remuneration of the peons and all other persons employed by leave of a Court in the service or execution of processes.

The High Court may from time to time alter and add to the rules so made.

Confirmation and publication of rules.

All such rules, alterations and additions shall, after being confirmed by the local Government, and sanctioned by the Governor-General of India in Council, be published in the local official Gazette, and shall thereupon have the force of law.

Until such rules shall be so made and published, the fees now leviable for serving and executing processes shall continue to be levied, and shall be deemed to be fees leviable under this Act.

Tables of process-fees.

XXI. A Table in the English and Vernacular languages, showing the fees chargeable for such service and execution, shall be exposed to view in a conspicuous part of each Court.

Number of peons in District and subordinate Courts.

XXII. Subject to rules to be made by the High Court and approved by the local Government and the Governor-General of India in Council,

every District Judge and every Magistrate of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court and each of the Courts subordinate thereto,

Number of peons in Mofussil Small Cause Courts.

and for the purposes of this section, every Court of Small Causes established under Act XI. of 1865 *(to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature)* shall be deemed to be subordinate to the Court of the District Judge.

Number of peons in Revenue Courts.

XXIII. Subject to rules to be framed by the Chief Controlling Revenue Authority and approved by the local Government and the Governor-General of India in Council, every officer performing the functions of a Collector of a District shall fix, and from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court or the Courts subordinate to him.

Process served under this Chapter to be held process served under Civil Procedure Code.

XXIV. Every process served or executed under this Chapter shall be held to be a process within the meaning of Section 188 of the Code of Civil Procedure, and of Section 2 of Act XXIII. of 1861 *(to amend Act VIII. of* 1859.*)*

CHAPTER V.

Of the Mode of Levying Fees.

Collection of fees by stamps.

XXV. All fees referred to in Section 3 or chargeable under this Act shall be collected by stamps.

Stamps to be impressed or adhesive.

XXVI. The stamps used to denote any fee chargeable under this Act shall be impressed, or adhesive, or partly impressed and partly adhesive, as the Governor-General of India in Council may, by notification in the *Gazette of India*, from time to time direct.

Rules for supply, number, renewal and keeping accounts of stamps.

XXVII. The local Government may, from time to time, make rules for regulating—

(*a*) the supply of stamps to be used under this Act,

(*b*) the number of stamps to be used for denoting any fee chargeable under this Act,

(*c*) the renewal of damaged or spoiled stamps, and

(*d*) the keeping accounts of all stamps used under this Act :

Provided that, in the case of stamps used under Section 3 in a High Court, such rules shall be made with the concurrence of the Chief Justice of such Court.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Stamping documents inadvertently received.

XXVIII. No document which ought to bear a stamp under this Act shall be of any validity, unless and until it is properly stamped.

But if any such document is through mistake or inadvertence received, filed or used in any Court or office without being properly stamped, the presiding Judge or the head of the office, as the case may be, or, in the case of a High Court, any Judge of such Court, may, if he thinks fit, order that such document be stamped as he may direct; and on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

Amended document.

XXIX. Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose a fresh stamp.

Cancellation of stamp.

XXX. No document requiring a stamp under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been cancelled.

Such officer as the Court or the head of the office may from time to time appoint shall, on receiving any such document, forthwith effect such cancellation by punching out the figure-head so as to leave the amount designated on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed.

CHAPTER VI.

MISCELLANEOUS.

Repayment of fees paid on applications to Criminal Courts.

XXXI. 1. Whenever an application or petition containing a complaint or charge of an offence, other than an offence for which police officers may arrest without warrant, is presented to a Criminal Court, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee paid on such application or petition.

2. In the case mentioned in Section 18, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay to the complainant the fee, if any, paid by the latter for the examination.

3. When the complainant has paid fees for serving processes in either of the cases mentioned in the first and second paragraphs of this

Section, the Court, if it convict the accused person, shall, in addition to the penalty imposed upon him, order him to repay such fees to the complainant.

4. All fees ordered to be repaid under this section may be recovered as if they were fines imposed by the Court.

Amendments of Act VIII. of 1859, Sections 308, 309, 371, and 373.

XXXII. The Code of Civil Procedure, Sections 308 and 309, shall be read as if, for the words 'stamp-duty' and 'stamps,' the words and figures 'fees chargeable under the Court Fees' Act, 1870,' were substituted; Section 371 of the same Code shall be read as if, for the words 'a stamp of the value,' the words 'the payment of the fee,' were substituted; and Section 373 of the same Code shall be read as if, for the words 'on a stamp paper of the value,' the words 'and shall be chargeable with the fee,' were substituted; and as if, for the words 'for the stamp,' the words 'the fees,' were substituted.*

Admission in criminal cases of documents for which proper fee has not been paid.

XXXIII. Whenever the filing or exhibition in a Criminal Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in Section 4 or Section 6 shall be deemed to prohibit such filing or exhibition.

Rules for sale of stamps.

XXXIV. In the General Stamp Act, 1869, Section 48 shall be read as if, for the words and figures 'Act XXVI. of 1867 (*to amend the law relating to Stamp Duties*),' the words and figures 'The Court Fees' Act, 1870,' were substituted.

Power to reduce or remit fees.

XXXV. The Governor-General of India in Council may from time to time, by notification in the *Gazette of India*, reduce or remit, in the whole or in any part of British India, all or any of the fees mentioned in the first and second schedules to this Act annexed,

and may in like manner cancel or vary such order.

Saving of fees to certain officers of High Courts.

XXXVI. Nothing in Chapters II and V of this Act applies to the commission payable to the Accountant General of the High Court at Fort William, or to the fees which any officer of a High Court is allowed to receive in addition to a fixed salary.

* The rest of this Section has been repealed by Act XIV, 1870, Schedule 3.

SCHEDULE I.

Ad valorem fees.

NUMBER.		PROPER FEE.
1. Plaint or memorandum of appeal (not otherwise provided for in this Act), presented to any Civil or Revenue Court, except those mentioned in Section 3.*	When the amount or value of the subject-matter in dispute does not exceed five rupees	Six annas.
	When such amount or value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees...	Six annas.
	When such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees	Twelve annas.
	When such amount or value exceeds one thousand rupees, for every one hundred rupees, or part thereof, in excess of one thousand rupees, up to five thousand rupees ...	Five rupees.
	When such amount or value exceeds five thousand rupees, for every two hundred and fifty rupees, or part thereof, in excess of five thousand rupees, up to ten thousand rupees	Ten rupees.
	When such amount or value exceeds ten thousand rupees, for every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees ...	Fifteen rupees.
	When such amount or value exceeds twenty thousand rupees, for every one thousand rupees or part thereof, in excess of twenty thousand rupees, up to thirto thousand rupees	Twenty rupees.
	When such amount or value exceeds thirty thousand rupees, for every two thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees	Twenty rupees.
	When such amount or value exceeds fifty thousand rupees, for every five thousand rupees, or part thereof, in excess of fifty thousand rupees ...	Twenty-five rupees.
	Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be three thousand rupees.	

* To ascertain the proper fee leviable on the institution of a suit, see the Table annexed to this Schedule.

SCHEDULE I.—(*Continued.*)

Ad valorem fees.

NUMBER.		PROPER FEE.
2. Plaint or memorandum of appeal in a suit for possession under Act XIV. of 1859, (*to provide for the limitation of suits*), Section 15. 3. Petition under the Indian Registration Act, Section 53.	... ...	A fee of one-half the amount prescribed in the foregoing scale.
4. Application for review of judgment, if presented on or after the ninetieth day from the date of the decree.	... ...	The fee leviable on the plaint or memorandum of appeal.
5. Application for review of judgment if presented before the ninetieth day from the date of the decree.	... ...	One-half of the fee leviable on the plaint or memorandum of appeal.
6. Copy or transalation of a judgment or order not being, or having the force of, a decree.	When such judgment or order is passed by any Civil Court other than a High Court, or by the presiding officer of any Revenue Court or Officer, or by any other Judicial or Executive Authority—	
	(*a.*)—If the amount or value of the subject-matter is fifty or less than fifty rupees ...	Four annas.
	(*b.*)—If such amount or value exceeds fifty rupees ...	Eight annas.
	When such judgment or order is passed by a High Court ...	One rupee.
7. Copy of a decree or order having the force of a decree.	When such decree or order is made by any Civil Court other than a High Court, or by any Revenue Court—	
	(*a.*)—If the amount or value of the subject-matter of the suit wherein such decree or order is made is fifty or less than fifty rupees	Eight annas.
	(*b.*)—If such amount or value exceeds fifty rupees ...	One rupee.
	When such decree or order is made by a High Court—	Four rupees.
8. Copy of any document liable to stamp-duty under the General Stamp Act, 1869, when left by any party to a suit or proceeding in place of the original withdrawn.	(*a.*)—When the stamp-duty chargeable on the original does not exceed eight annas.	The amount of the duty chargeable on the original.
	(*b.*)—In any other case ...	Eight annas.

SCHEDULE I—(*Continued*).

Ad valorem fees.

NUMBER.		PROPER FEE.
9. Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act, or copy of any account, statement, report or the like, taken out of any Civil or Criminal or Revenue Court or office, or from the office of any chief officer charged with the executive administration of a Division.	For every three hundred and sixty words or fraction of three hundred and sixty words	Eight annas.
10. Certificate of administration granted under Act XL. of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*), or under Act XX. of 1864 (*for making better provision for the care of the persons and property of minors in the Presidency of Bombay*).	If the amount or value of the property in respect to which such certificate is granted does not exceed five hundred rupees	Five rupees.
	If such amount or value exceeds five hundred rupees but not one thousand rupees	Ten rupees.
	And for every one thousand rupees, or part thereof, in excess of one thousand rupees	Five rupees.
11. Probate of a will or letters of administration with or without will annexed. 12. Certificate granted under Act XXVII. of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*), or under Bombay Regulation VIII. of 1827 (*to provide for the formal recognition of Heirs, Executors and Administrators, and for the appointment of Administrators and Managers of property by the Courts*)	If the amount or value of the property in respect of which the probate or letters or certificate shall be granted exceeds one thousand rupees.	Two per centum on such amount or value.

NOTE.—The person to whom any such certificate is granted, or his representative, shall, after the expiration of twelve months from the date of such certificate and thereafter whenever the Court granting such certificate requires him so to do, file a statement on oath of all monies recovered or realised by him under such certificate.

If the monies so recovered or realised exceed the amount of debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same and order such person to take out a fresh certificate and pay the fee prescribed by this schedule for such excess.

In default of filing such statement within the time allowed, the Court may cancle the certificate.

Table of rates of ad valorem fees leviable on the institution of suits.

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.		
Rs.	Rs.	Rs.	A.	P.
.....	5	0	6	0
5	10	0	12	0
10	15	1	2	0
15	20	1	8	0
20	25	1	14	0
25	30	2	4	0
30	35	2	10	0
35	40	3	0	0
40	45	3	6	0
45	50	3	12	0
50	55	4	2	0
55	60	4	8	0
60	65	4	14	0
65	70	5	4	0
70	75	5	10	0
75	80	6	0	0
80	85	6	6	0
85	90	6	12	0
90	95	7	2	0
95	100	7	8	0
100	110	8	4	0
110	120	9	0	0
120	130	9	12	0
130	140	10	8	0
140	150	11	4	0
150	160	12	0	0
160	170	12	12	0
170	180	13	8	0
180	190	14	4	0
190	200	15	0	0
200	210	15	12	0
210	220	16	8	0
220	230	17	4	0
230	240	18	0	0
240	250	18	12	0
250	260	19	8	0
260	270	20	4	0
270	280	21	0	0
280	290	21	12	0
290	300	22	8	0
300	310	23	4	0
310	320	24	0	0
320	330	24	12	0

Table of rates of ad valorem fees, &c.—(Continued).

When the amount or value of the subject-matter exceeds.	But does not exceed.	Proper Fee.		
Rs.	Rs.	Rs.	A.	P.
330	340	25	8	0
340	350	26	4	0
350	360	27	0	0
360	370	27	12	0
370	380	28	8	0
380	390	29	4	0
390	400	30	0	0
400	410	30	12	0
410	420	31	8	0
420	430	32	4	0
430	440	33	0	0
440	450	33	12	0
450	460	34	8	0
460	470	35	4	0
470	480	36	0	0
480	490	36	12	0
490	500	37	8	0
500	510	38	4	0
510	520	39	0	0
520	530	39	12	0
530	540	40	8	0
540	550	41	4	0
550	560	42	0	0
560	570	42	12	0
570	580	43	8	0
580	590	44	4	0
590	600	45	0	0
600	610	45	12	0
610	620	46	8	0
620	630	47	4	0
630	640	48	0	0
640	650	48	12	0
650	660	49	8	0
660	670	50	4	0
670	680	51	0	0
680	690	51	12	0
690	700	52	8	0
700	710	53	4	0
710	720	54	0	0
720	730	54	12	0
730	740	55	8	0
740	750	56	4	0
750	760	57	0	0

Table of rates of ad valorem fees, &c.—(Continued).

When the amount or value of the subject matter exceeds.	But does not exceed.	Proper Fee.		
Rs.	Rs.	Rs.	A.	P.
760	770	57	12	0
770	780	58	8	0
780	790	59	4	0
790	800	60	0	0
800	810	60	12	0
810	820	61	8	0
820	830	62	4	0
830	840	63	0	0
840	850	63	12	0
850	860	64	8	0
860	870	65	4	0
870	880	66	0	0
880	890	66	12	0
890	900	67	8	0
900	910	68	4	0
910	920	69	0	0
920	930	69	12	0
930	940	70	8	0
940	950	71	4	0
950	960	72	0	0
960	970	72	12	0
970	980	73	8	0
980	990	74	4	0
990	1,000	75	0	0
1,000	1,100	80	0	0
1,100	1,200	85	0	0
1,200	1,300	90	0	0
1,300	1,400	95	0	0
1,400	1,500	100	0	0
1,500	1,600	105	0	0
1,600	1,700	110	0	0
1,700	1,800	115	0	0
1,800	1,900	120	0	0
1,900	2,000	125	0	0
2,000	2,100	130	0	0
2,100	2,200	135	0	0
2,200	2,300	140	0	0
2,300	2,400	145	0	0
2,400	2,500	150	0	0
2,500	2,600	155	0	0
2,600	2,700	160	0	0
2,700	2,800	165	0	0
2,800	2,900	170	0	0

Table of rates of ad valorem fees, &c.—(Continued).

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.		
Rs.	Rs.	Rs.	A.	P.
2,900	3,000	175	0	0
3,000	3,100	180	0	0
3,100	3,200	185	0	0
3,200	3,300	190	0	0
3,300	3,400	195	0	0
3,400	3,500	200	0	0
3,500	3,600	205	0	0
3,600	3,700	210	0	0
3,700	3,800	215	0	0
3,800	3,900	220	0	0
3,900	4,000	225	0	0
4,000	4,100	230	0	0
4,100	4,200	235	0	0
4,200	4,300	240	0	0
4,300	4,400	245	0	0
4,400	4,500	250	0	0
4,500	4,600	255	0	0
4,600	4,700	260	0	0
4,700	4,800	265	0	0
4,800	4,900	270	0	0
4,900	5,000	275	0	0
5,000	5,250	285	0	0
5,250	5,500	295	0	0
5,500	5,750	305	0	0
5,750	6,000	315	0	0
6,000	6,250	325	0	0
6,250	6,500	335	0	0
6,500	6,750	345	0	0
6,750	7,000	355	0	0
7,000	7,250	365	0	0
7,250	7,500	375	0	0
7,500	7,750	385	0	0
7,750	8,000	395	0	0
8,000	8,250	405	0	0
8,250	8,500	415	0	0
8,500	8,750	425	0	0
8,750	9,000	435	0	0
9,000	9,250	445	0	0
9,250	9,500	455	0	0
9,500	9,750	465	0	0
9,750	10,000	475	0	0
10,000	10,500	490	0	0
10,500	11,000	505	0	0

Table of rates of ad valorem fees, &c.—(Continued).

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.		
Rs.	Rs.	Rs.	A.	P.
11,000	11,500	520	0	0
11,500	12,000	535	0	0
12,000	12,500	550	0	0
12,500	13,000	565	0	0
13,000	13,500	580	0	0
13,500	14,000	595	0	0
14,000	14,500	610	0	0
14,500	15,000	625	0	0
15,000	15,500	640	0	0
15,500	16,000	655	0	0
16,000	16,500	670	0	0
16,500	17,000	685	0	0
17,000	17,500	700	0	0
17,500	18,000	715	0	0
18,000	18,500	730	0	0
18,500	19,000	745	0	0
19,000	19,500	760	0	0
19,500	20,000	775	0	0
20,000	21,000	795	0	0
21,000	22,000	815	0	0
22,000	23,000	835	0	0
23,000	24,000	855	0	0
24,000	25,000	875	0	0
25,000	26,000	895	0	0
26,000	27,000	915	0	0
27,000	28,000	935	0	0
28,000	29,000	955	0	0
29,000	30,000	975	0	0
30,000	32,000	995	0	0
32,000	34,000	1,015	0	0
34,000	36,000	1,035	0	0
36,000	38,000	1,055	0	0
38,000	40,000	1,075	0	0
40,000	42,000	1,095	0	0
42,000	44,000	1,115	0	0
44,000	46,000	1,135	0	0
46,000	48,000	1,155	0	0
48,000	50,000	1,175	0	0
50,000	55,000	1,200	0	0
55,000	60,000	1,225	0	0
60,000	65,000	1,250	0	0
65,000	70,000	1,275	0	0
70,000	75,000	1,300	0	0

Table of rates of ad valorem fees, &c.—(Continued).

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.		
Rs.	Rs.	Rs.	A.	P.
75,000	80,000	1,325	0	0
80,000	85,000	1,350	0	0
85,000	90,000	1,375	0	0
90,000	95,000	1,400	0	0
95,000	1,00,000	1,425	0	0
1,00,000	1,05,000	1,450	0	0
1,05,000	1,10,000	1,475	0	0
1,10,000	1,15,000	1,500	0	0
1,15,000	1,20,000	1,525	0	0
1,20,000	1,25,000	1,550	0	0
1,25,000	1,30,000	1,575	0	0
1,30,000	1,35,000	1,600	0	0
1,35,000	1,40,000	1,625	0	0
1,40,000	1,45,000	1,650	0	0
1,45,000	1,50,000	1,675	0	0
1,50,000	1,55,000	1,700	0	0
1,55,000	1,60,000	1,725	0	0
1,60,000	1,65,000	1,750	0	0
1,65,000	1,70,000	1,775	0	0
1,70,000	1,75,000	1,800	0	0
1,75,000	1,80,000	1,825	0	0
1,80,000	1,85,000	1,850	0	0
1,85,000	1,90,000	1,875	0	0
1,90,000	1,95,000	1,900	0	0
1,95,000	2,00,000	1,925	0	0
2,00,000	2,05,000	1,950	0	0
2,05,000	2,10,000	1,975	0	0
2,10,000	2,15,000	2,000	0	0
2,15,000	2,20,000	2,025	0	0
2,20,000	2,25,000	2,050	0	0
2,25,000	2,30,000	2,075	0	0
2,30,000	2,35,000	2,100	0	0
2,35,000	2,40,000	2,125	0	0
2,40,000	2,45,000	2,150	0	0
2,45,000	2,50,000	2,175	0	0
2,50,000	2,55,000	2,200	0	0
2,55,000	2,60,000	2,225	0	0
2,60,000	2,65,000	2,250	0	0
2,65,000	2,70,000	2,275	0	0
2,70,000	2,75,000	2,300	0	0
2,75,000	2,80,000	2,325	0	0
2,80,000	2,85,000	2,350	0	0
2,85,000	2,90,000	2,375	0	0

Table of rates of ad valorem fees, &c.—(Continued).

When the amount or value of the subject-matter exceeds	But does not exceed	Proper Fee.		
Rs.	Rs.	Rs.	A.	P.
2,90,000	2,95,000	2,400	0	0
2,95,000	3,00,000	2,425	0	0
3,00,000	3,05,000	2,450	0	0
3,05,000	3,10,000	2,475	0	0
3,10,000	3,15,000	2,500	0	0
3,15,000	3,20,000	2,525	0	0
3,20,000	3,25,000	2,550	0	0
3,25,000	3,30,000	2,575	0	0
3,30,000	3,35,000	2,600	0	0
3,35,000	3,40,000	2,625	0	0
3,40,000	3,45,000	2,650	0	0
3,45,000	3,50,000	2,675	0	0
3,50,000	3,55,000	2,700	0	0
3,55,000	3,60,000	2,725	0	0
3,60,000	3,65,000	2,750	0	0
3,65,000	3,70,000	2,775	0	0
3,70,000	3,75,000	2,800	0	0
3,75,000	3,80,000	2,825	0	0
3,80,000	3,85,000	2;850	0	0
3,85,000	3,90,000	2,875	0	0
3,90,000	3,95,000	2,900	0	0
3,95,000	4,00,000	2,925	0	0
4,00,000	4,05,000	2,950	0	0
4,05,000	4,10,000	2,975	0	0
4,10,000	.....	3,000	0	0

SCHEDULE II.

Fixed Fees.

NUMBER.		PROPER FEE.
1. Application or petition.	(*a.*)—When presented to any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings; or when presented to any officer of Land Revenue by any person holding temporarily-settled land under direct engagement with Government, and when the subject-matter of the application or petition relates exclusively to such engagement; or when presented to any Municipal Commissioner under any Act for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement; or when presented to any Civil Court other than a principal Civil Court of original jurisdiction, or to any Cantonment Magistrate sitting as a Court of Civil Judicature under Act III. of 1859, or to any Court of Small Causes constituted under Act XI. of 1865, or under Act XVI. of 1868, Section 20 or to a Collector or other officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than fifty rupees; or when presented to any Civil, Criminal or Revenue Court, or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or officer, or of any other document on record in such Court or Office.	One anna.

SCHEDULE II.—(*Continued*).

Fixed Fees.

NUMBER.		PROPER FEE.
1. Application or petition.—(*continued*).	(*b*.)—When containing a complaint or charge of any offence other than an offence for which police officers may, under the Criminal Procedure Code, arrest without warrant, and presented to any Criminal Court; or when presented to a Civil, Criminal or Revenue Court, or to a Collector, or any revenue officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate in his executive capacity, and not otherwise provided for by this Act; or to deposit in Court revenue or rent; or for determination by a Court of the amount of compensation to be paid by a landlord to his tenant.	Eight annas.
	(*c*.)—When presented to a Chief Commissioner or other chief controlling revenue or executive authority, or to a Commissioner of Revenue or Circuit, or to any chief officer charged with the executive administration of a division and not otherwise provided for by this Act	One rupee.
2. Application for leave to sue as a pauper ...	(*d*.)—When presented to a High Court...	Two rupees.
	... ...	Eight annas.
3. Application for leave to appeal as a pauper ...	(*a*.)—When presented to a District Court.	One rupee.
	(*b*.)—When presented to a Commissioner or a High Court ...	Two rupees.
4. Plaint or memorandum of appeal in a suit to obtain possession under Act XVI. of 1838, or Bombay Act V. of 1864 (*to give Mamlutdars' Courts jurisdiction in certain cases to maintain existing possession, or to restore possession to any party dispossessed otherwise than by course of law*) ...	... ...	Eight annas.

SCHEDULE II.—(*Continued*).

Fixed Fees.

NUMBER.		PROPER FEE.
5. Plaint or memorandum of appeal in a suit to establish or disprove a right of occupancy ...		
6. Bail-bond or other instrument of obligation not otherwise provided for by this Act, when given by the direction of any court or executive authority ...	... ...	Eight annas.
7. Undertaking under Section 49 of the Indian Divorce Act		
8. Petition of objection to assessment under the Indian Income Tax Act ...		
9. Petition of appeal under the Indian Income Tax Act	... ...	One rupee.
10 Mukhtárnáma or Wakálatnáma.	When presented for the conduct of any one case—	
	(*a.*)—to any Civil or Criminal Court other than a High Court, or to any Revenue Court, or to any Collector or Magistrate, or other executive officer, except such as are mentioned in clauses (*b*) and (*c*) of this Number	Eight annas.
	(*b.*)—to a Commissioner of Revenue, Circuit or Customs, or to any officer charged with the executive administration of a Division, not being the chief revenue or executive authority	One rupee.
	(*c.*)—to a High Court, Chief Commissioner, Board of Revenue, or other chief controlling revenue or executive authority	Two rupees.
11. Memorandum of appeal when the appeal is not from an order rejecting a plaint or from a decree or an order having the force of a decree, and is presented—	(*a.*)—to any Civil Court other than a High Court, or to any Revenue Court or executive officer other than the High Court or chief controlling revenue or executive authority ...	Eight annas.
	(*b.*)—to a High Court or Chief Commissioner, or other chief controlling executive or revenue authority ...	Two rupees.

SCHEDULE II.—*(Continued).*

Fixed Fees.

NUMBER.		PROPER FEE.
12. Caveat ...		
13. Application under Act X. of 1859, Section 26, or Bengal Act VI. of 1862, Section 9, or Bengal Act VIII. of 1869, Section 37 ...		
14. Petition in a suit under the Native Converts' Marriage Dissolution Act, 1866	... ...	Five rupees.
15. Plaint or memorandum of appeal in a suit to obtain possession of a wife.		
16. Administration-bond	... ...	Eight rupees.
17. Plaint or memorandum of appeal in each of the following suits:—		
(1.) to alter or set aside a summary decision or order of any of the Civil Courts not established by Letters Patent or of any Revenue Court:		
(2.) to alter or cancel any entry in a register of the names of proprietors of revenue-paying estates:	... ...	Ten rupees.
(3.) to obtain a declaratory decree where no consequential relief is prayed:		
(4.) to set aside an award:		
(5.) to set aside an adoption:		

SCHEDULE II.—(*Continued*).

Fixed Fees.

NUMBER.		PROPER FEE.
17. Plaint or Memorandum, &c.—(*continued*).		
(6.) every other suit where it is not possible to estimate at a money-value the subject-matter in dispute, and which is not otherwise provided for by this Act		
18. Application under Section 326 of the Code of Civil Procedure ...	... ...	Ten rupees.
19. Agreement under Section 328 of the same Code		
20. Every petition under the Indian Divorce Act, except petitions under Section 44 of the same Act, and every memorandum of appeal under Section 55 of the same Act	... ...	Twenty rupees.
21. Plaint or memorandum of appeal under the Pársí Marriage and Divorce Act, 1865		

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ACT No. VIII. OF 1870.

1 Power to take measures under Act in particular districts.
2 Power to make rules
3 Confirmation and publication of rules.
4 Punishment for breach of rules
5 Saving of prosecutions under other laws
6 Power to place neglected children under supervision.
7. Extent of Act.

An Act for the prevention of the murder of Female Infants.

Preamble.

Whereas the murder of female infants is believed to be commonly committed in certain parts of British India; and whereas it is necessary to make better provision for the prevention of the said offence; It is hereby enacted as follows:

Power to take measures under Act in particular districts.

I. If it shall appear to the local Government that the said offence is commonly committed in any district, or by any class, or family, or persons, residing therein, the local Government may, with the previous sanction of the Governor-General of India in Council, declare, by notification published in the official Gazette, and in such other manner as the local Government shall direct, that measures for the prevention of such offence

shall be taken under this Act, in such district, or in respect of such class, or family, or persons.

The notification shall define the limits of such district, or shall specify the class, or family, or persons to whom such notification is to be deemed to apply.

Power to make rules.

II. When such notification shall have been published as aforesaid, it shall be lawful for the local Government, subject to the provisions of Section 3, from time to time to make rules consistent with this Act, for all or any of the following purposes;

(1.)—For making and maintaining registers of births, marriages, and deaths occurring in such district, or in or among the class, family, or persons to whom such notification has been made applicable; and for making, from time to time, a census of such persons, or of any other persons residing within such district:

(2.)—For the entertainment of any police force in excess of the ordinary fixed establishment of police, or for the entertainment of any officers or servants, for the purpose of preventing or detecting the murder of female infants in such district, or in or among such class, family, or persons, or for carrying out any of the provisions of this Act:

(3.)—For prescribing how and by whom information shall be given to the proper officers of all births, marriages, and deaths occurring or about to occur in such district, or in or among such class, family or persons:

(4.)—For the regulation and limitation of expenses incurred by any person to whom such notification applies on account of the celebration of marriage or of any ceremony or custom connected therewith:

(5.)—For regulating the manner in which all or any of the expenses incurred in carrying into effect rules made under this Section shall be recovered from all or any of the inhabitants of such district, or from the persons to whom such notification is applicable:

(6.)—For defining the duties of any officer or servant appointed to carry out any rule made under this Section.

Confirmation and publication of rules.

III. No rule or alteration made under Section 2 shall take effect until it shall have been confirmed by the Governor-General of India in Council and published in the *Gazette of India* and also in the local Gazette.

Copies of every such rule shall be affixed in such places, and shall be distributed in such manner, as the local Government may direct.

Punishment for breach of rules.

IV. Whoever disobeys any such rule shall, on conviction before any officer exercising the powers of a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to 1,000 Rupees, or with both.

Saving of prosecutions under other laws.

V. Nothing in this Act, or in any rule made and published as aforesaid, shall prevent any person from being prosecuted and punished under any other law for any offence punishable under this Act: Provided that no person shall be punished twice for the same offence.

Power to place neglected children under supervision.

VI. If it appears to the Magistrate of the District that any person to whom the notification mentioned in Section 1 applies, neglects to make proper provision for the maintenance of any female child for whose mainten-

ance he is legally responsible, and that the life or health of such child is thereby endangered, such Magistrate may, in his discretion, place the child under such supervision as he may think proper, and shall, if necessary, remove the child from the custody of such person.

The Magistrate of the District may order him to make a monthly allowance for the maintenance of the child at such monthly rate not exceeding 50 Rupees as to such Magistrate shall seem reasonable, and if such person wilfully neglects to comply with such order, such Magistrate may, for every breach of the order, by warrant direct the amount due to be levied in manner provided by Section 61 of the Code of Criminal Procedure.

Nothing in this Section shall affect the powers of Magistrates under Section 316 of the same Code.

Extent of Act.

VII. This Act shall, in the first instance, extend only to the North-Western Provinces, to the Punjab, and to Oudh; but the Governor-General of India in Council may by order extend it to any part of the territories (other than Oudh) under the immediate administration of the Government of India; and the Governor of Madras in Council, the Governor of Bombay in Council, and the Lieutenant-Governor of Bengal, may severally by order extend it to any part of the territories under their respective governments.

Every order under this Section made by the Governor-General of India in Council shall be published in the *Gazette of India*. Every other order made under this Section shall be published in the local official Gazette.

ACT No. IX. OF 1870.

An Act to enable the Elphinstone Land and Press Company, Limited, when in voluntary liquidation, to sell their property to the Secretary of State for India in Council.

Preamble.

Whereas it is desirable that the property of the Elphinstone Land and Press Company, Limited, should be transferred to the Secretary of State for India in Council for public purposes: And whereas negociations for the transfer of the property of the said Company are now pending between the said Secretary of State in Council and the said Company, and it has been agreed that, in the event of the said transfer being made, the purchase-money for the said property shall be paid in four per cent. stock of the Government of India, such stock to be issued and calculated at 100 Rupees for each ninety-three rupees of such purchase-money: And whereas the said Company is desirous of being wound up voluntarily under the Indian Companies' Act, 1866: And whereas doubts have arisen whether Voluntary Liquidators, when appointed by the said Company to transfer the said property, can make such transfer in consideration of the stock to be issued as aforesaid; It is hereby enacted as follows:

Voluntary Liquidators empowered to sell for four per cent. stock.

I. The Voluntary Liquidators of the said Company when duly appointed shall have power and are hereby empowered to transfer the property of the said Company, or any part thereof, to the Secretary of State for India in Council, and to make such transfer in consideration of, and to receive the purchase-money either wholly or in part in, four per cent. stock of the Government of India, such stock to be issued and

calculated at 100 Rupees for each ninety-three rupees of such purchase-money.

Receipt of Liquidators to discharge Secretary of State from liability.

II. A receipt by the Voluntary Liquidators of the said Company for the amount of the stock issued and delivered to the said Liquidators shall be deemed a sufficient acknowledgment of the issue and delivery of so much of the said stock as in such receipt shall be expressed to be issued and delivered to the said Company, and the said Secretary of State in Council shall not be concerned to see to the distribution of the said stock amongst the shareholders of the said Company, or be responsible for any loss or misapplication or wrongful distribution thereof.

Upon execution of instruments of transfer property of Company to vest in Secretary of State.

III. Upon the execution by the said Voluntary Liquidators of any instrument or instruments purporting to transfer the property, or any part thereof, of the said Company to the said Secretary of State in Council, such property or part thereof (as the case may be) shall vest in the said Secretary of State in Council according to the tenor and effect of the said instrument or instruments; but discharged from all claims on the part of the said Company and share-holders thereof for the purchase-money of the said property and the stock to be issued in payment thereof.

ACT No. X. OF 1870.

PART I.

PRELIMINARY.

1. Short Title. Local extent. Commencement.
2. Repeal of Acts.
3. Interpretation Clause.

PART II.

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4. Power to enter and survey. Power to mark out line. Power to clear land. Previous notice of entry.
5. Payment for damage.

Declaration of intended Acquisition.

6. Declaration that land is required for a public purpose. Contents of Declaration. Declaration to be evidence.
7. After declaration, Collector to take order for acquisition.
8. Land to be marked out and measured. Plan.
9. Notice to persons interested. Contents of Notice. Notice to occupiers.
10. Power to require statements as to names and interests. Persons required to make statements to be deemed legally bound to do so.

Enquiry into Value and Claims.

11. Enquiry into value and amount of compensation. Tender. Power to summon witnesses.
12. Postponement of enquiry.
13. Matters to be considered and matters to be neglected.

Award by Collector.

14. Award in case of agreement as to compensation. Award to be filed and to be evidence.
15. Reference where no claimant attends, or if Collector and persons interested cannot agree.

Taking Possession.

16. Power to take possession.
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PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

18. Collector's statement on reference to Court.
19. Service of notice.
20. Power to appoint an assessor.
21. Determination of amount.
22. Appointment of new assessor. Powers of new assessor.
23. Proceedings to be in open Court.
24. Matters to be considered in determining compensation.
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26. Rules as to amount of compensation.
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29. Agreement as to amount of compensation.

30. Difference as to the amount of compensation.
31. Assessors' fees.
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33. Party to pay costs.
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35. Appeal from Judge's decision as to compensation.
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53. Magistrate to enforce surrender.
54. Government not bound to complete acquisition. Compensation when acquisition is not completed.
55. Part of house or building not to be taken.
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57. Exemption from stamp-duty and fees.
58. Bar of suits to set aside awards under Act. Limitation of suits for anything done in pursuance of Act.
59. Power to make rules Publication of rules.

An Act for the acquisition of land for public purposes and for Companies.

Preamble.

Whereas it is expedient to consolidate and amend the law for the acquisition of land needed for public purposes and for Companies, and for determining the amount of compensation to be made on account of such acquisition; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short Title.

I. This Act may be called "The Land Acquisition Act, 1870:"

Local extent.

It extends to the whole of British India;

Commencement.

And it shall come into force on the 1st day of June, 1870.

Repeal of Acts.

II. On and from such day Act VI. of 1857 *(for the acquisition of land for public purposes)*, Act II. of 1861 *(to amend Act VI. of 1857)*, and Act XXII. of 1863 *(to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken)*, shall be repealed.

All references made to any of the said Acts in subsequent Acts, orders or contract shall be read as if made to this Act.

Interpretation Clause.

III. In this Act—

The expression "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth:

"Land."

The expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act:

"Person interested."

The expression "Collector" means the Collector of a District, and includes a Deputy Commissioner and any officer specially appointed by the local Government to perform the functions of a Collector under this Act:

"Collector."

The expression "Court" means, in the Regulation Provinces, British Burmah and Sindh, a principal Civil Court of original jurisdiction,

"Court."

and in the Non-regulation Provinces other than British Burmah and Sindh, the Court of a Commissioner of a Division,

unless when the local Government has appointed (as it is hereby empowered to do), either specially for any case, or generally within any specified local limits, a judicial officer to perform the functions of a Judge under this Act, and then the expression "Court" means the Court of such officer:

The expression "Company" means a Company registered under the Indian Companies' Act, 1866, or formed in pursuance of an Act of Parliament, or by Royal Charter or Letters Patent:

"Company."

And the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided, (that is to say):—

"Entitled to act."

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted if free from disability:

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics, or idiots themselves, if free from disability, could have acted.

PART II.

ACQUISITION.

Preliminary Investigation.

IV. Whenever it appears to the local Government that land in any locality is likely to be needed for any public purpose, a notification to that effect shall be published in the local Gazette, and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

Power to enter and survey.

Thereupon it shall be lawful for any officer either generally or specially authorized by such Government in this behalf, and for his servants and workmen,

to enter upon and survey and take levels of any land in such locality:

to dig or bore into the sub-soil:

to do all other acts necessary to ascertain whether the land is adapted for such purpose:

Power to mark out line.

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon:

to mark such levels, boundaries and line by placing marks and cutting trenches:

Power to clear land.

and, where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Previous notice of entry.

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

V. The officer so authorized shall at the time of such entry pay or tender payment for all necessary damage to be done aforesaid, and in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Collector, and such decision shall be final.

Declaration of intended acquisition.

Declaration that land is required for a public purpose.

VI. Subject to the provisions of Part VII of this Act, whenever it appears to the local Government that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders:

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid out of public revenues, or out of some Municipal Fund, or by a Company.

Contents of declaration.

The declaration shall be published in the local official Gazette and shall state the District or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

Declaration to be evidence.

The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and after making such declaration, the local Government may acquire the land in manner hereinafter appearing.

After declaration, Collector to take order for acquisition.

VII. Whenever any land shall have been so declared to be needed for a public purpose or for a Company, the local Government, or some officer authorized by the local Government in this behalf, shall direct the Collector to take order for the acquisition of the land.

VIII. The Collector shall thereupon cause the land (unless it has

Land to be marked out and measured. Plan.

been already marked out under Section 4) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

IX. The Collector shall then cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him.

Notice to persons interested.

Such notice shall state the particulars of the land so needed and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice) and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests.

Contents of notice.

The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the Revenue District in which the land is situate.

Notice to occupiers.

In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post.

X. The Collector may also require any such person to deliver to him a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Power to require statements as to names and interests.

Every person required to make or deliver a statement under this Section or Section 9, shall be deemed to be legally bound to do so within the meaning of Sections 175 and 176 of the Indian Penal Code.

Persons required to make statements to be deemed legally bound to do so.

Enquiry into Value and Claims.

XI. On the day so fixed, the Collector shall proceed to enquire summarily into the value of the land and to determine the amount of compensation which in his opinion should be allowed therefor, and shall tender such amount to the persons interested who have attended in pursuance of the notice.

Enquiry into value and amount of compensation. Tender.

For the purpose of such enquiry, the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and (as far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure.

Power to summon witnesses.

XII. The Collector may, if no claimant attends pursuant to the notice, or if for any other cause he thinks fit, from time to time postpone the enquiry to a day to be fixed by him.

Postponement of enquiry.

Matters to be considered and matters to be neglected.

XIII. In determining the amount of compensation the Collector shall take into consideration the matters mentioned in Section 24, and shall not take into consideration any of the matters mentioned in Section 25.

Award by Collector.

Award in case of agreement as to compensation.

XIV. If the Collector and the persons interested agree as to the amount of compensation to be allowed, the Collector shall make an award under his hand for the same.

Award to be filed and to be evidence.

Such award shall be filed in the Collector's office and shall be conclusive evidence, as between the Collector and the persons interested, of the value of the land and the amount of compensation allowed for the same.

Reference where no claimant attends, or if Collector and persons interested cannot agree.

XV. When the Collector proceeds to make the enquiry as aforesaid, whether on the day originally fixed for the enquiry or on the day to which it may have been postponed,

if no claimant attends,

or if the Collector considers that further enquiry as to the nature of the claim ought to be made by the Court,

or if any person whom the Collector has reason to think interested does not attend,

or if the Collector is unable to agree with the persons interested who have attended in pursuance of the notice as to the amount of compensation to be allowed,

or if upon the said enquiry any question respecting the title to the land or any rights thereto or interests therein arise between or among two or more persons making conflicting claims in respect thereof,

the Collector shall refer the matter to the determination of the Court in manner hereinafter appearing.

Taking possession.

Power to take possession.

XVI. When the Collector has made an award under Section 14 or a reference to the Court under Section 15, he may take possession of the land, which shall thereupon vest absolutely in the Government free from all encumbrances.

Power to take possession in cases of urgency.

XVII. In cases of urgency, whenever the local Government so directs, the Collector (though no such reference has been directed or award made) may, on the expiration of fifteen days from the publication of the notice mentioned in the first paragraph of Section 9, take possession of any waste or arable land needed for public purposes or for a Company.

Such land shall thereupon vest absolutely in the Government free from all encumbrances.

The Collector shall offer to the persons interested compensation for the standing crops and trees (if any) on such land; and in case such offer is not accepted, the value of such crops and trees shall be allowed for in awarding compensation for the land under the provision 3 herein contained.

PART III.

Reference to Court and Procedure thereon.

Collector's statement on reference to Court.

XVIII. In making a reference under Section 15, the Collector shall state for the information of the Court, in writing under his hand,

(*a*) the situation and extent of the land needed,

(*b*) the names of the persons whom he has reason to think interested in such land,

(*c*) the amount awarded for damages, and paid or tendered under Sections 5 and 17, or either of them, the amount of compensation tendered for the land under Section 11, or, if no claimant has attended pursuant to the notice mentioned in Section 9, the amount of compensation which the Collector is willing to give to the persons interested, and

(*d*) the grounds on which the amount of compensation was determined.

Service of notice.

XIX. The Court shall thereupon cause to be served on each of the persons so named a notice requiring him (if he has not made a claim under Section 9) to state to the Court, on or before a day to be therein mentioned, the sum which he claims as compensation for his interest in the land so needed.

The Court shall also cause a notice to be served on the Collector and each of such persons requiring them to appoint, on or before a day to be therein mentioned, two qualified assessors (one to be nominated by the Collector and the other by the persons interested) for the purpose of aiding the Judge in determining the amount of the compensation.

If no claimant has attended pursuant to the notice mentioned in Section 9, the Court shall cause to be affixed on some conspicuous place on or near the land needed a notice to the effect that, if the persons interested in such land do not, on or before a day to be therein mentioned, appear in Court and state the nature of their respective interests in the land and the amount and particulars of their claims to compensation, and nominate a qualified assessor, the Court will proceed to determine such amount.

Power to appoint an assessor.

XX. In case of failure to nominate either of such assessors within the time so specified, the Judge shall himself appoint an assessor in his stead.

Determination of amount.

XXI. As soon as the assessors have been appointed, the Judge and the assessors shall proceed to determine the amount of the compensation.

Appointment of new assessor.

XXII. If before such amount is determined, any of the assessors dies or desires to be discharged, or refuses or neglects, or becomes incapable to act, the party by whom he was appointed may appoint some other qualified person to act in his place.

If the assessor so dying, or desiring to be discharged, or refusing, or neglecting or becoming incapable were appointed by the Judge,

or in the case of an assessor appointed by either party, if for the space of seven days after notice from the Court for that purpose the party who appointed such assessor fails to appoint another,

the Judge shall appoint some other qualified person in his stead.

Powers of new assessor.

Every assessor so substituted shall have the same powers as were vested in the former assessor at the time of his so dying or desiring to be discharged, or refusing, or neglecting or becoming incapable.

Proceedings to be in open Court.

XXIII. Every proceeding under Section 21 shall take place in open Court, and all persons entitled to practise in any Civil Court shall be entitled to appear, plead and act, or to appear and act (as the case may be), in such proceeding.

Matters to be considered in determining compensation.

XXIV. In determining the amount of compensation to be awarded for land acquired under this Act, the Judge and assessors shall take into consideration—

First, the market-value, at the time of awarding compensation, of such land:

Secondly, the damage (if any) sustained by the person interested, at the time of awarding compensation, by reason of severing such land from his other land:

Thirdly, the damage (if any) sustained by the person interested, at the time of awarding compensation, by reason of the acquisition injuriously affecting his other property, whether moveable or immoveable, in any other manner, or his earnings; and

Fourthly, if, in consequence of the acquisition, he is compelled to change his residence, the reasonable expenses (if any) incidental to such change.

Matters to be neglected in determining compensation.

XXV. But the Judge or assessors shall not take into consideration—

First, the degree of urgency which has led to the acquisition:

Secondly, any disinclination of the person interested to part with the land required:

Thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit:

Fourthly, any damage which, after the time of awarding compensation, is likely to be caused by or in consequence of the use to which the land acquired will be put:

Fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired:

Sixthly, any increase to the value of the other land of the person interested, likely to accrue from the use to which the land acquired will be put; or

Seventhly, any outlay or improvements on such land made, commenced, or effected with the intention of enhancing the compensation to be awarded therefore under this Act.

Rules as to amount of compensation.

XXVI. Where the person interested has made a claim to compensation, pursuant to any notice mentioned in Section 9 or in Section 19 the amount awarded to him shall not exceed the amount so claimed, or be less than the amount tendered by the Collector under Section 11.

Where the person interested has refused to make such claim, or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded may be less than, and shall in no case exceed, the amount so tendered.

Where the person interested has omitted for a sufficient reason

(to be allowed by the Judge) to make such claim, the amount awarded to him shall not be less than, and may exceed, the amount so tendered.

The provisions of this and the two preceding sections shall be read to every assessor, in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded under this Act.

Record of assessors' opinions.

XXVII. The opinion of each assessor shall be given orally and shall be recorded in writing by the Judge.

Difference on questions of law.

XXVIII. In the case of a difference of opinion between the Judge and the assessors or any of them upon a question of law or practice or usage having the force of law, the opinion of the Judge shall prevail, and there shall be no appeal therefrom.

Agreement as to amount of compensation.

XXIX. In case the Judge and one or both of the assessors agree as to the amount of compensation, their decision thereon shall be final.

Difference as to the amount of compensation.

XXX. In case of difference of opinion between the Judge and both of the assessors as to the amount of compensation, the decision of the Judge shall prevail, subject to the appeal allowed under Section 35.

Assessors' fees.

XXXI. Every assessor appointed under this Act, not being an officer of Government, shall receive such fee for his services as the Judge shall direct, provided that such fee shall not exceed 500 Rupees.

Such fee shall be deemed to be costs in the proceeding.

Costs of proceedings taken by order of Court.

XXXII. The costs of all proceedings taken under this Part by order of the Court shall, in the first instance, be paid by the Collector.

Party to pay costs.

XXXIII. Where the amount awarded does not exceed the sum tendered by the Collector, the costs of all proceedings under this Part shall be paid by the person interested.

Where the amount awarded exceeds the sum so tendered, such costs shall be paid by the Collector.

Awards to be in writing.

XXXIV. Every award made under this Part shall be in writing signed by the Judge and the assessors or assessor concurring therein, and shall specify the amount awarded under the first clause of Section 24, and also the amounts (if any) respectively awarded under the second, third and fourth clauses of the same section, together with the grounds of awarding each of the said amounts.

Award to state amount of costs.

It shall also state the amount of costs incurred in the proceedings under this Part and by what persons and in what proportions they are to be paid.

Recovery of costs.

The costs (if any) payable by the person interested and not deducted under Section 42 may be recovered as if they were costs incurred in a suit, and as if the award were the decree therein.

Appeal from Judge's decision as to compensation.

XXXV. If the Judge differs from both the assessors as to the amount of compensation, he shall pronounce his decision, and the Collector or the person interested (as the case may be) may apppeal therefrom to the Court of the District Judge, unless the Judge whose decision is appealed

from is the District Judge, or unless the amount which the Judge proposes to award exceeds 5,000 Rupees, in either of which cases the appeal shall lie to the High Court.

Every appeal under this section shall be presented within the time and in manner provided by the Code of Civil Procedure for regular appeals in suits.

Provisions of Code of Civil Procedure made applicable.

XXXVI. The following provisions of the Code of Civil Procedure

(*a*) as to adding parties,
(*b*) as to adjournment,
(*c*) as to death, marriage and bankruptcy or insolvency of parties,
(*d*) as to summoning witnesses and their attendance,
(*e*) as to examination of parties and witnesses,
(*f*) as to production of documents, and
(*g*) as to commissions to examine absent witnesses and to make local enquiries,

shall apply, so far as may be, to proceedings before the Court.

PART IV.

APPORTIONMENT OF COMPENSATION.

Particulars of apportionment to be specified.

XXXVII. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

XXXVIII. When the amount of compensation has been settled under Section 14, if any dispute arises as to the apportionment of the same or any part thereof, the Collector shall refer such dispute to the decision of the Court.

Determination of proportions.

XXXIX. When the amount of compensation has been settled by the Court, and there is any dispute as to the apportionment thereof, or when a reference to the Court has been made under Section 38, the Judge sitting alone shall decide the proportions in which the persons interested are entitled to share in such amount.

An appeal shall lie from such decision to the High Court, unless the Judge whose decision is appealed from is not the District Judge, in which case the appeal shall lie in the first instance to the District Judge.

Every appeal under this section shall be presented within the time and in manner provided by the Code of Civil Procedure for regular appeals in suits.

PART V.

PAYMENT.

Payment of compensation to whom made.

XL. Payment of the compensation shall be made by the Collector according to the award to the persons named therein, or in the case of an appeal under Section 39, according to the decision on such appeal:

Proviso.

Provided that nothing herein contained shall affect the liability of any person who may receive the whole or any part

of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

Payment on making award by Collector.

XLI. When the amount of the compensation has been settled under Section 14, if the persons interested shall so desire, the Collector shall on the making of the said award pay the amount of such compensation and take possession of the land:

Provided that, in any case where immediate possession is not required, he may allow the occupants (if any) of the land to remain in occupation of the same, upon such terms as he and they may agree on, until possession of the land is required.

Percentage on market-value.

XLII. In addition to the amount of any compensation awarded under Part II or Part III of this Act, the Collector shall, in consideration of the compulsory nature of the acquisition, pay fifteen per centum on the market-value mentioned in Section 24.

Payment with interest.

When the amount of such compensation is not paid on taking possession, the Collector shall pay the amount awarded and the said percentage with interest on such amount and percentage at the rate of six per centum per annum fromthe time of so taking possession:

Provided that the costs, (if any) payable to the Collector by the person interested, shall be deducted from such amount and percentage.

Time of payment in appealable cases.

Provided that, in cases where the decision of the Court under Part III or Part IV of this Act is liable to appeal, the Collector shall not pay the amount of compensation or the percentage, or any part thereof, until the time for appealing against such decision has expired and no appeal shall have been presented against such decision, or until any such appeal shall have been disposed of.

PART VI.

Temporary Occupation of Land.

Temporary occupation of waste or arable land.

XLIII. Subject to the provisions of Part VII of this Act, whenever it appears to the local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

The Collector shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

Difference as to compensation.

In case the Collector and the persons interested differ as to the sufficiency of the compensation, the Collector shall refer such difference for the final order of the Court.

Power to enter and take possession.

XLIV. On payment of such compensation,

or on executing such agreement,

or on making a reference under Section 43,

the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

Restoration of land taken.

And on the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company.

Difference as to condition of land.

XLV. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference for the final order of the Court, and on such reference under Section 43, the Judge sitting alone shall decide the difference referred.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

Company may be authorized to enter and survey.

XLVI. Subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, the local Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by Section 4.

Construction of Sections 4 and 5.

In every such case Section 4 shall be construed as if, for the words "for such purpose," the words "for the purpose of the Company" were substituted, and Section 5 shall be construed as if, after the words "the officer," the words "of the Company" were inserted.

Consent of local Government to acquisition.

XLVII. The provisions of Section 6 to Section 45 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the local Government, and unless the Company shall have executed the agreement hereinafter mentioned.

Execution of agreement.

Previous enquiry.

XLVIII. Such consent shall not be given unless the local Government be satisfied, by an enquiry held as hereinafter provided—

(1) that such acquisition is needed for the construction of some work, and

(2) that such work is likely to prove useful to the public.

Such enquiry shall be held by such officer and at such time and place as the local Government shall appoint.

Such officer may summon and enforce the attendance of witnesses, and compel the production of documents by the same means and, as far

as possible, in the same manner as is provided by the Code of Civil Procedure in the case of a Civil Court.

Agreement with Secretary of State in Council.

XLIX. Such officer shall report to the local Government the result of the enquiry, and if the local Government is satisfied that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as the Governor-General of India in Council may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Secretary of State for India in Council, providing to the satisfaction of the local Government for the following matters, namely :

(1). The payment to Government of the cost of the acquisition :

(2). The transfer, on such payment, of the land to the Company :

(3). The terms on which the land shall be held by the Company :

(4). The time within which, and the conditions on which, the work shall be executed and maintained ; and

(5). The terms on which the public shall be entitled to use the work.

Publication of agreement.

L. Every such agreement shall, as soon as may be after its execution, be published in the *Gazette of India* and also in the local official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

PART VIII.

MISCELLANEOUS.

Service of notice.

LI. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under Section 4, by the officer therein mentioned, and in the case of any other notice, by or by order of the Collector or the Judge.

Whenever it may be practicable, the service of the notice shall be made on the person therein named.

When such person cannot be found, the service may be made on any adult male member of his family residing with him ; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business.

Obstruction to survey, &c.
Filling trenches.
Destroying landmarks.

LII. Whoever wilfully obstructs any person in doing any of the acts authorized by Section 4 or Section 8, or wilfully fills up, destroys, damages, or displaces any trench or mark made under Section 4 shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding 50 Rupees, or to both.

Magistrate to enforce surrender.

LIII. If the Collector is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and if not a Magistrate, he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police, and

such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector.

Government not bound to complete acquisition.

LIV. Except in the case provided for in Section 44, nothing in this Act shall be taken to compel the Government to complete the acquisition of any land unless an award shall have been made or a reference directed under the provisions hereinbefore contained.

Compensation when acquisition is not completed.

But whenever the Government declines to complete any such acquisition, the Collector shall determine the amount of compensation due for the damage (if any) done to such land under Section 4 or Section 8, and not already paid for under Section 5, and shall pay such amount to the person injured.

Part of house or building not to be taken.

LV. The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired.

Payment of Collector's charges by Municipal Body or Company.

LVI. Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any Municipal Fund, or of any Company, the charges incurred by the Collector in such acquisition shall be defrayed from or by such Fund or Company.

Exemption from stamp-duty and fees.

LVII. No award or agreement made under this Act shall be chargeable with stamp-duty and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Bar of suits to set aside awards under Act.

LVIII. No suit shall be brought to set aside an award under this Act.

Limitation of suits for anything done in pursuance of Act.

And no suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

Power to make rules.

LIX. The local Government shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

Publication of rules.

All such rules, alterations and additions shall, when sanctioned by the Governor-General in Council, be published in the local official Gazette, and shall thereupon have the force of law.

Act No. XI. of 1870.

I.—*Preliminary*

1. Short Title. Local extent.

II.—*Standards.*

2. Standard of Weight.
3. Standard of Length.
4. Units of Weight and Measurement.
5. Special Weights and Measures to be authorized.
6. Districts how defined. Sub-districts how defined.
7. Primary standards to be provided.
8. Local standards to be provided.

III.—*Use of new Weights and Measures.*

9. Use of new Weights and Measures in Government Offices, &c.
10. General use of new Weights and Measures of Capacity.
11. Contracts by Weight or Measure.

IV.—*Wardens.*

12. Appointment of Wardens.
13. Periodical verification of Weights, Measures and Balances.
14. Warden to verify and correct Weights, Measures and Balances.
15. May refuse to verify or correct things unfit.
16. To institute and conduct prosecutions.
17. Search for Weights, Measures and Balances not verified or not correct.
18. Exercise of any of Warden's powers.

V.—*Penalties.*

19. Commencement of penal sections.
20. Sale of Weights, Measures and Balances not verified.
21. Use of Weights, Measures and Balances not verified but correct.
22. Use of Weights, Measures and Balances not verified and not correct. Proviso as to Weights and Measures of the United Kingdom.
23. Convictions under Sections 21 and 22 how limited.
24. Failure to submit for verification.
25. Disposal of things in respect to which convictions take place.
26. Counterfeiting Warden's marks.

VI.—*Miscellaneous.*

27. Power to make rules.
28. Publication of rules. Commencement.
29. Recovery of fines and fees.
30. Tables of equivalents.

An Act to regulate the Weights and Measures of British India.

Preamble. Whereas it is expedient to provide for the ultimate adoption of an uniform system of Weights and Measures throughout British India; It is hereby enacted as follows:

I.—*Preliminary.*

Short Title. *Local extent.* I. This Act may be called the "Indian Weights and Measures' Act 1870," and extends to the whole of British India.

II.— *Standards.*

Standard of Weight. II. The primary Standard of Weight shall be called a Ser, and shall be a weight of metal in the possession of the Government of India, which weight, when weighed in a vacuum, is equal to the weight known in France as the Kilogramme des Archives.

Standard of Length. III. The primary Standard of Length shall be called a Metre, and shall be the distance between the marks at the ends of a rod of metal in the possession of the Government of India, which distance, when measured at the temperature of melting ice, is equal to the Measure of Length known in France as the Mètre des Archives.

Units of Weight and Measurement. IV. The Units of Weight and Measurement shall be—

for Weights, the said Ser;

for Measures of Capacity, measure containing one such Ser of water at its maximum density, weighed in a vacuum;

for Measures of Length, the said Metre;

for Measures of Area, the square Metre;
for Measures of Solidity, the cubic Metre.

Special Weights and Measures to be authorized.

V. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, declare the magnitude and denominations of the Weights and Measures, other than the said units, to be authorized under this Act:

Provided that every such Weight or Measure shall be an integral multiple or integral sub-multiple of one of the units aforesaid.

The Governor-General in Council may, in like manner, revoke such notification.

Unless it be otherwise ordered in any such notification, the subdivisions of all such Weights and Measures shall be expressed in decimal parts.

Districts how defined.

VI. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, define the limits of districts for the purposes of this Act.

Sub-districts how defined.

The local Government may, from time to time, by notification in the official Gazette, define the limits of sub-districts for the purposes of this Act.

Primary standards to be provided.

VII. The Governor-General in Council shall provide, in such manner and for such districts as the said Governor-General in Council shall direct, proper primary standards and sets of the said authorized Weights and Measures.

Such standards shall, for the purposes of this Act, be deemed the standards for such districts.

Local standards to be provided.

VIII. The local Government shall provide, in such manner and for such sub-districts as the local Government shall direct, copies of such of the said authorized Weights and Measures as shall be necessary to serve as local standards in such sub-districts.

Such local standards shall be deemed correct, until they are proved to be otherwise.

III.—*Use of new Weights and Measures.*

Use of new Weights and Measures in Government Offices, &c.

IX. Whenever the Governor-General in Council considers that proper standard Weights and Measures have been made available for the verification of the Weights and Measures to be used by any Government Office or Municipal Body or Railway Company, the Governor-General in Council may, by notification in the *Gazette of India*, direct that, after a date to be fixed therein, all or any of the Weights and Measures authorized as aforesaid shall be used in the dealings and contracts by such Office, Body or Company.

General use of new Weights and Measures of Capacity.

X. The Governor-General in Council, or the local Government with the previous assent of the Governor-General in Council, may, by notification in the official Gazette, direct that, after a date to be fixed therein, all or any of the Weights and Measures of Capacity authorized as aforesaid shall, in every district or sub-district therein mentioned, be used in the dealings and contracts of all persons engaged in business or trade, or of the persons engaged in any specified business or trade;

and may in like manner, from time to time, alter or revoke such direction:

Provided that no such notification shall issue, until proper standard Weights and Measures have been provided for such district or sub-district.

Contracts by Weight or Measure.

XI. After the date fixed in any notification under Section 9 or Section 10, all dealings and contracts had and made by the Officers, Bodies, Companies, or persons mentioned or referred to in such notification, for any work to be done or goods to be sold or delivered by Weight or Measure of capacity, length, area or solidity shall, in the absence of a special agreement to the contrary, be deemed to be had and made according to the Weights and the Measures of capacity, length, area or solidity, as the case may be, directed in such notification to be used by such Officers, Bodies, Companies or persons.

IV.—*Wardens.*

Appointment of Wardens.

XII. The Governor-General in Council (as regards the said primary standards and sets of authorized Weights and Measures) and the local Government (as regards the said local standards) shall appoint Wardens for the custody of the said standards and sets of authorized Weights and Measures.

The Governor-General in Council, or the local Government, as the case may be, may, at any time, suspend or remove any such Warden, and appoint another person in his stead.

Periodical verification of Weights, Measures and Balances.

XIII. All officers of Government, municipal officers, officers and servants of Railway Companies and persons engaged in businesses or trades, shall, so far as they are required by the rules made under Section 27, submit to a Warden for verification the Weights, Weighing Machines and Measures used by them under the provisions of Section 9 or Section 10, and the Balances used by them in their dealings, at such times not oftener than once in two years, and pay for such verification such fee, as the said rules shall prescribe.

Warden to verify and correct Weights, Measures and Balances.

XIV. Every such Warden (so far as he is required by the rules made under Section 27) shall verify, and shall, if requested so to do, correct, all Weights, Weighing Machines and Measures purporting to indicate Weights or Measures authorized under this Act, and all Balances, which are brought to him to be verified or corrected, and which appear to him fit for verification or correction.

When such Weights, Machines, Measures or Balances are found or made correct and in conformity with the requirements of this Act, he shall certify such correctness and conformity by stamping, engraving or branding them with the proper mark.

May refuse to verify or correct things unfit.

XV. The Warden may deface, or render incapable of use, or refuse to verify, correct, or mark, anything so brought, which appears to him unfit for verification or correction.

To institute and conduct prosecutions.

XVI. All prosecutions under this Act shall be instituted and conducted by a Warden, or by such person as in each case the Warden may appoint in this behalf.

Search for Weights, Measures and Balances not verified or not correct

XVII. On the application of a Warden, any officer in charge of a police station and, in a Presidency town, any inspector or superior officer of Police, may enter any premises or shop within the limits of such station or town for the purpose of inspecting or searching for

Weights, Weighing Machines and Measures kept for use under the provisions of Section 9 or 10, and for the purpose of inspecting or searching for the Balances kept for use in the dealings of the person occupying such premises or shop.

If such officer find in such premises or shop any such Weight, Machine, Measure or Balance, which shall not be verified under the provisions herein contained, or in conformity with the requirements of this Act, he may seize the same and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

Exercise of any of Warden's powers.

XVIII. Any of the powers and duties conferred and imposed by this Act on a Warden may be exercised and performed by any other officer whom the local Government may, from time to time, appoint.

V.—*Penalties.*

Commencement of penal sections.

XIX. The Governor-General in Council, or the local Government with the previous assent of the Governor-General in Council, may, by notification in the official Gazette, fix the date from which all or any of the provisions of Sections 20, 21, 22 and 24, shall come into force in respect to any district or sub-district; and the said sections shall be of no effect in such district or sub-district except in so far as they shall have so come into force.

Sale of Weights, Measures and Balances not verified.

XX. Whoever sells any Weight, Weighing Machine or Measure, purporting to indicate any Weight or Measure authorized under this Act and directed to be used under Section 9 or 10, or any Balance, which Weight, Machine, Measure or Balance shall not have been verified under the provisions herein contained, shall, for every such sale, be liable to a fine not exceeding five rupees,

and, in default of payment thereof, to imprisonment for a term not exceeding a week.

Use of Weights, Measures and Balances not verified but correct.

XXI. Whoever uses or has in his possession for purposes of business or trade any Weight, Weighing Machine or Measure purporting to indicate any Weight of Measure authorized under this Act, and directed to be used by him under Section 9 or 10, or any Balance, which Weight, Machine, Measure or Balance, being correct and in conformity with the requirements of this Act, shall not have been verified under the provisions herein contained, shall, for every such thing so used or had in possession, be liable to fine not exceeding five rupees,

and, in default of payment thereof, to imprisonment for a term not exceeding a week.

Use of Weights, Measures and Balances not verified and not correct.

XXII. Whoever uses or has in his possession, for purposes of business or trade,

any Weight or Measure other than a Weight or Measure directed to be used by him under Section 9 or 10, or any Machine for the purpose of indicating any Weight other than a Weight so directed to be used,

or any Weight, Weighing Machine or Measure purporting to indicate any Weight or Measure authorized under this Act, and directed to be used by him under Section 9 or 10, or any Balance, which Weight, Measure, Machine or Balance has not been verified under this

Act and is not correct, or is not in conformity with the requirements of this Act.

shall, for every such offence, be liable to a fine not exceeding ten rupees,

and, in default of payment thereof, to imprisonment for a term not exceeding a fortnight:

Proviso as to Weights and Measures of the United Kingdom.

Provided that nothing herein contained shall render it penal to use or to have in possession for purposes of business or trade any Weight or Measure in accordance with the standards of Weights and Measures established throughout the United Kingdom of Great Britain and Ireland.

Convictions under Sections 21 and 22 how limited.

XXIII. No person shall be convicted under Section 21 or Section 22 unless the Warden shall have proved that Weights or Measures verified under this Act, and suitable for the purposes of the business or trade of such person, were publicly offered for sale and procurable at a reasonable price in the district or sub-district in which the offence was committed, and at or immediately before the time when the offence was committed.

Failure to submit for verification.

XXIV. Whoever fails to submit for verification under Section 13 any Weight, Weighing Machine or Measure used by him under the provisions of Section 9 or Section 10, or any Balance used by him in his dealings, shall be liable to a fine not exceeding fifty rupees,

and, in default of payment thereof, to imprisonment for a term not exceeding one month.

Disposal of things in respect to which convictions take place.

XXV. A Magistrate convicting any person under Section 20, 21, 22 or 24 of this Act, or under Chapter XIII of the Indian Penal Code (*Of offences relating to weighing and measuring*), may order the thing in respect to which the conviction took place to be brought before a Warden, to be dealt with under the provisions of Sections 14 and 15:

Provided that, if the Magistrate consider such thing unfit for verification or correction, he may, instead of ordering it to be brought before a Warden, cause it to be defaced or rendered incapable of use.

Counterfeiting Warden's marks.

XXVI. Whoever knowingly counterfeits any mark used by a Warden under Section 14, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

VI.—*Miscellaneous.*

Power to make rules.

XXVII. The Governor-General in Council may, from time to time, make rules consistent with this Act for regulating the following matters:—

(*a.*)—The appointment of Wardens;

(*b.*)—The guidance of Wardens in all matters connected with the performance of their duties;

(*c.*)—The provision, replacement, custody and use of the standards;

(*d.*)—The method of verifying local standards, and Weights, Weighing Machines and Measures authorized under this Act, and Balances, and of certifying such verification;

(*e.*)—The errors which may be tolerated in Weights, Weighing Machines and Measures authorized under this Act, and in Balances;

(*f.*)—The shapes, proportions and dimensions to be given to Weights, Weighing Machines and Measures authorized under this Act, and to Balances, and the materials of which they may be made;

(*g.*)—The marking on Weights and Measures authorized under this Act of their several denominations;

(*h.*)—The conditions under which Government Offices, Municipal Bodies, Railway Companies, and persons engaged in businesses or trades, shall be subject to inspection and verification of the Weights, Weighing Machines and Measures authorized under this Act, and of the Balances used or sold by them;

(*i*).—The fees to be paid for verifying, correcting and certifying the verification of Weights, Weighing Machines and Measures authorized under this Act, and of Balances.

Publication of rules.

XXVIII. Such rules shall be published in the *Gazette of India.*

Commencement of rules.

And the Governor-General in Council, or the local Government with the previous assent of the Governor-General in Council, may, by notification in the official Gazette, declare that from and after a day to be named therein, all or any of the said rules shall come into force in respect of any Government Office, Municipal Body, or Railway Company, or of the persons engaged in any specified business or trade in any district or sub-district, and thereupon to the extent specified in such notification, such rules or rule shall have the force of law.

Recovery of fines and fees.

XXIX. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the police of such towns in force for the time being.

All fees payable under this Act shall be recoverable as though they were fines.

Tables of equivalents.

XXX. The local Government may, from time to time, prepare tables of the equivalents of Weights and Measures, other than those authorized under this Act, in terms of the Weights and Measures so authorized, and the equivalents so stated, after notification in the local official Gazette, shall be deemed the true equivalents.

ACT No. XII. OF 1870.

CHAPTER I.

PRELIMINARY.

1. Short Title.
2. Extent of Act. Act not to apply to Ships-of-War, &c. Or to sea-going Steam Vessels conveying public mails.
3. Repeal of Act XXI. of 1858. Amendment of Act II. of 1860, Section 1.
4. Interpretation Clause.

CHAPTER II.

RULES AS TO NATIVE PASSENGER SHIPS.

5. Native Passenger Ship to sail only from Ports appointed by Government.
6. Not to sail without obtaining a certificate.
7. Penalty.
8. Appointment of officers.
9. Master to give notice of day of sailing, &c.
10. Power to enter and inspect ship.
11. Ship may be surveyed.
12. Officer to be satisfied before giving certificate: (1.) That the ship is sea-worthy: (2.) That the space between-decks for passengers is sufficient: (3.) That the space on the upper deck is sufficient: (4.) That there is a due supply of provisions.

13. Number of passengers.
14. List of passengers.
15. Ship taking additional passengers and touching at intermediate Port.
16. Penalty for fraudulent alteration in ship after certificate obtained.
17. Information to be transmitted to Ports of embarkation.
18. Report of Consul, &c., to be admissible in evidence.
19. Depositions to be received in evidence when witnesses cannot be produced.
20. Length of voyage to be fixed by proclamation.
21. Quantity of provisions and water to be shipped.
22. Contract by passengers for supply of their own provisions.
23. Penalty on ships bringing excessive number of passengers from certain Foreign Ports to Indian Ports.
24. Bond when ship clears for a Port in Red Sea.
25. Ships sailing to or from a Port in Red Sea to touch at Aden.
26. Bill of health.

CHAPTER III.

COASTING STEAMERS.

27. Certificates to be furnished in Coasting Steam Vessels intended to carry passengers.
28. Certificates to Coasting Steam Vessels how to be granted, &c.
29. Copy of certificate to be placed in conspicuous part of ship.
30. Penalty for excess of number specified in certificate.
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CHAPTER IV.

MISCELLANEOUS.

33. Penalty on landing passenger at a place other than that at which he has contracted to land.
34. Passenger's right of action preserved.
35. Adjudication of offence. Fine leviable by distress on ship.
36. Jurisdiction.
37. By whom proceedings for penalties to be instituted.
38. Application of fines.

An Act for the regulation of Native Passenger Ships, and of Steam Vessels intended to convey Passengers on coasting voyages.

Preamble.

Whereas abuses have occurred in the overcrowding of ships conveying Native Passengers between Ports and places in India, and Ports and places in the Red Sea or Persian Gulf; and whereas similar abuses have also occurred in the case of ships commanded or owned by subjects of Her Majesty, and conveying Native Passengers between other Ports and places situate east of the Cape of Good Hope, and Ports and places in the Red Sea or Persian Gulf; and whereas it is expedient to prevent such abuses, and to provide for the regulation of all such Ships as aforesaid which shall depart from or arrive at any of the said Ports or places in India, and also for the regulation of Steam Vessels intended to carry passengers on coasting voyages; It is hereby enacted as follows:

CHAPTER I.

PRELIMINARY.

Short Title.

I. This Act may be called "The Native Passenger Ships Act, 1870."

Extent of Act.

II. This Act extends to all subjects of Her Majesty whether within British India or within the dominions of Princes and States in India in alliance with Her Majesty, and all persons being Native Indian subjects of Her Majesty without and beyond British India.

Act not to apply to Ships-of-War, &c.

Or to sea-going Steam Vessels conveying public mails.

Nothing in this Act applies to any Ship-of-War or Transport belonging to or in the service of Her Majesty, or to any Ship-of-War belonging to any Foreign Prince or State, or to any Ship under contract with the Government of any European State, or to any sea-going Steam Vessel employed in the conveyance of the public mails under a contract.

Repeal of Act.

Amendment of Act II. of 1860, Section 1.

III. Act XXI. of 1858 *(for the regulation of Native Passenger Ships, and of Steam Vessels intended to convey Passengers on coasting voyages)* is hereby repealed; and Section 1 of Act II. of 1860 *(to amend the law relating to the carriage of Passengers by sea)* shall be read as if, for the words and figures "Act XXI. of 1858," the words and figures "The Native Passenger Ships Act, 1870," were substituted.

Interpretation lacuse.

IV. In this Act—

"Magistrate."

The word "Magistrate" means a person exercising powers not inferior to those of a Subordinate Magistrate of the first class, and includes a Justice of the Peace, and, at the Port of Aden, the Political Resident and his Assistants:

"Local Government."

The words "Local Government" mean the person or persons for the time being immediately administering the Executive Government of the territories where the Port or place in question is situate:

"Master."

The word "Master" includes every person having command or charge of a Vessel:

"Native Passenger Ship."

The words "Native Passenger Ship" mean a vessel carrying more than thirty passengers being natives of Asia or Africa, which may depart or proceed on any voyage from a Port or place in British India or in the said dominions to any Port or place in the Red Sea or Persian Gulf, or which may arrive at any Port or place within British India or the said dominions from any Port or place in the Red Sea or Persian Gulf, having on board more than thirty such passengers.

CHAPTER II.

RULES AS TO NATIVE PASSENGER SHIPS.

Native Passenger Ship to sail only from Ports appointed by Government.

V. No Native Passenger Ship shall depart or proceed upon any voyage to which this Act extends from any Port or place within British India or the said dominions other than such Ports and places as the local Government may from time to time appoint; and after any Native Passenger Ship has departed or proceeded upon any such voyage from a Port or place so to be appointed, no person shall be received on board as a passenger, except at some other duly appointed Port or place.

Not to sail without obtaining a certificate.

VI. No Native Passenger Ship shall depart or proceed upon any such voyage from any Port or place appointed under this Act, until the Master shall have obtained a certificate from an officer authorized to grant the same.

Penalty.

VII. If any Native Passenger Ship departs or proceeds upon a voyage from any Port or place within British India or the said dominions,

or if any person is received as a passenger on board a Native Passenger Ship in contravention of the provisions of Section 5 or Section 6,

the Owner or Master shall, for every passenger conveyed on a Ship unlawfully departing or proceeding on such voyage, or for every

passenger unlawfully received on board, be liable to a penalty not exceeding 100 Rupees, or to imprisonment not exceeding one month, or to both;

and the Ship, if found within two years in any place within British India, may be seized and detained by any Chief Officer of Customs until the penalties incurred under this Act have been adjudicated, and the payment of the fines imposed under this Act, with all costs, has been enforced under the provisions of Section 35.

Appointment of officers.

VIII. Within British India, the local Government shall appoint such persons as it may deem proper to exercise or perform the powers and duties conferred and imposed by this Act.

Master to give notice of day of sailing, &c.

IX. The Master of any Native Passenger Ship sailing from any Port or place appointed under this Act, shall give notice to the proper officer that the Ship is to carry Native Passengers, and of her destination, and of the proposed day of sailing;

such notice shall be given not less than three days before the proposed day of sailing.

Power to enter and inspect Ship.

X. After receiving such notice, the officer aforesaid, or any person authorized by him, shall be at liberty at all times to enter and inspect the Ship and fittings, provisions, and stores therein;

and any person impeding or refusing to allow such inspection shall be liable, on conviction, to a fine not exceeding 500 Rupees for each offence, or to imprisonment for a term not exceeding three months, or to both.

Ship may be surveyed.

XI. The officer aforesaid may, if he think fit, cause the Ship to be surveyed at the expense of the Master by a competent surveyor, who shall report whether the Ship is, in his opinion, sea-worthy and fit for her intended voyage.

Officer to be satisfied, before giving certificate—

XII. The officer aforesaid shall not give his certificate, unless he shall be satisfied—

That the Ship is sea-worthy:

(1.) That the Ship is sea-worthy and properly manned, equipped, fitted, and ventilated; and has not on board any cargo, likely from its quality, quantity, or mode of stowage, to prejudice the health or safety of the passengers:

That the space between-decks for passengers is sufficient:

(2.) That the space appropriated to the passengers in the between-decks contains at the least twelve superficial and seventy-two cubical feet or space for every adult passenger on board, that is to say, for every passenger above twelve years of age, and for every two passengers between the ages of one year and twelve years:

That the space on the upper deck is sufficient:

(3.) That a space of four superficial feet per adult is left clear on the upper deck for the use of the passengers:

That there is a due supply of provisions.

(4.) That provisions, fuel, and water have been placed on board, of good quality, properly packed, and sufficient to supply the passengers on board during the declared duration of the intended voyage, according to the scale hereinafter contained.

Number of passengers.

XIII. No such Ship shall carry any greater number of passengers than, together with the Master and crew, shall amount to the proportion of two persons for every three tons of the registered or estimated tonnage of the Ship.

List of passengers.

XIV. The Master of any such Ship, before departing or proceeding on any such voyage from any Port or place in British India, shall sign two lists, specifying (as accurately as may be) the names of all the passengers, and stating the number of the crew; and shall deliver them to the officer aforesaid, who shall thereupon (after having first mustered the passengers and compared the number and names of such passengers with the lists) countersign and return to the Master one of such lists.

The Master shall note in writing on such last-mentioned list, and on any additional list to be made under this Act, the date and supposed cause of death of any passenger who may die on the voyage, and shall forthwith, on the arrival of the Ship at her destination or at any Port at which it may be intended to land passengers and before any passengers are landed, produce the list, with any additions thereto made, to any person lawfully exercising Consular authority on behalf of Her Majesty at the Port of arrival if it be a Foreign Port, or to the Chief Officer of Customs, or the officer (if any) appointed under this Act, at any Port or place at which it shall be intended to land the passengers or any of them.

In case of non-compliance with any of the requirements of this Section on the part of the Master, or if any false entry be wilfully made by him in any such list, the Master shall be liable to a fine not exceeding 500 Rupees for each offence, or to imprisonment for a term not exceeding three months, or to both.

Ship taking additional passengers and touching at intermediate Port.

XV. If, after the Ship shall have departed or proceeded on any such voyage, any additional passengers are taken on board at a Port or place within British India or the said dominions, appointed under this Act for the embarkation of passengers,

or if such Ship shall, upon her voyage, touch or arrive at any such Port, having previously received on board additional passengers at any place beyond British India or the said dominions, the Master shall obtain a fresh certificate from the officer at such Port, and shall make lists of all such additional passengers; and all the provisions hereinbefore contained in that behalf shall be applicable to any certificate granted or list made under this Section.

In case the Master fail to obtain any such fresh certificate, or to make any such list of additional passengers, he shall be liable to a fine not exceeding 500 Rupees, or to imprisonment for a term not exceeding three months, or to both.

Penalty for fraudulent alteration in Ship after certificate obtained.

XVI. If any Master of a Ship, after having obtained a certificate under Section 6 or Section 15 of this Act, shall fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the Ship, its passengers, or other matters to which such certificate relates, he shall be liable to a fine not exceeding 2,000 Rupees or to imprisonment not exceeding six months, or to both.

Information to be transmitted to Ports of embarkation.

XVII. The Chief Officer of Customs, or the officer (if any) appointed under this Act, at any Port or place within British India at which the Ship shall touch or arrive, shall, with advertence to the requirements of this Act, transmit any particulars which he may deem important respecting the Ship and the passengers conveyed therein, to the officer at the Port from which the Ship commenced her voyage, and also to the officer at any other Port within British India or the said dominions where the passengers or any of them embarked.

Report of Consul, &c, to be admissible in evidence.

XVIII. In any proceeding for the adjudication of any penalty incurred under this Act, any document purporting to be a report of such particulars as are referred to in the last preceding Section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising Consular authority on behalf of Her Majesty in any Foreign Port, shall be received in evidence, if the same appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

Depositions to be received in evidence when witnesses cannot be produced.

XIX. Whenever, in the course of any legal proceeding instituted under this Act at any Port or place in British India, the testimony of any witness is required in relation to the subject-matter of such proceeding, any deposition that such witness may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same local Government as the Port or place where such proceedings are instituted) or any British Consular Officer elsewhere, shall, if authenticated by the signature of the Justice, Magistrate or Consular Officer, be admissible in evidence on due proof that such witness cannot be found within the jurisdiction of the Court in which such proceedings are instituted:

Provided that, if the proceeding is criminal, such deposition shall not be admissible unless it was made in the presence of the person accused, and the fact that it was so made is certified by the Justice, Magistrate, or Consular Officer.

It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

Length of voyage to be fixed by proclamation.

XX. Within British India, the local Government may, by any proclamation to be from time to time issued for that purpose and published in the Government Gazette (if any), or in one of the public newspapers, declare what shall be deemed, for the purposes of this Act, the duration of the voyage of any Native Passenger Ship from any Port or place in British India or the said dominions to any other Port or place.

Quantity of provisions and water to be shipped.

XXI. Every Native Passenger Ship, at the time of departure from the Port or place at which passengers shall be embarked under this Act, shall have on board good and wholesome provisions for the use and consumtion of the passengers, over and above the victualling of the crew, to the amount

or in the proportion following, that is to say, a supply of water to the amount of five gallons to every week of the declared duration of the voyage for every passenger on board, such water being carried in tanks or sweet casks, and a supply of rice, flour, oatmeal, or bread-stuffs to the amount of seven pounds weight to every week of such duration for every such passenger:

Provided that, when any such Ship shall be destined to call at a Port or place in the course of her voyage for the purpose of filling up her water-cask, a supply of water at the rate before mentioned for every week of an average voyage to such Port or place of calling, shall be deemed to be a compliance with this Act.

The provision of this Section regarding food shall be deemed to have been complied with in any case where it shall appear that, by the special authority of the local Government, any other articles of food were substituted for the articles above enumerated as being equivalent thereto.

Contract by passengers for supply of their own provisions.

XXII. The requirements of this Act respecting the supply of provisions for passengers shall not, except as to the supply of water, be applicable to any passenger who may have contracted to furnish his own provisions.

Penalty on Ships bringing excessive number of passengers from certain Foreign Ports to Indian Ports.

XXIII. If any Ship, bringing passengers from any Port or place east of the Cape of Good Hope and not within British India or the said dominions to any Port or place within British India or the said dominions, shall have on board a greater number of passengers or persons than in the proportion prescribed by this Act, the Master of such Ship shall, in addition to any other penalty which he may have incurred under the provisions of this Act, be liable, on conviction, for each person in excess of such proportion to a fine not exceeding 50 Rupees, or to imprisonment not exceeding one month, or to both.

Bond when Ship clears for a port in Red Sea.

XXIV. In the case of every Native Passenger Ship sailing from any Port within British India to any Port in the Red Sea, the officer whose duty it is to grant a port-clearance for any such Ship, shall not grant such clearance unless and until the Owner, Agent, or Master of such Ship and two sureties resident in British India shall, by a joint and several bond, have become bound unto the Secretary of State for India in Council in the penal sum of 5,000 Rupees, conditioned to be void if the said Ship touches at Aden on her outward and also on her homeward voyage, and does not leave that Port without having obtained from the proper authority a clean bill of health.

Ships sailing to or from a port in Red Sea to touch at Aden.

XXV. Every Ship carrying more than thirty passengers being Natives of Asia or Africa, and sailing from any Port east of the Cape of Good Hope to any Port in the Red Sea,

or sailing from any Port in the Red Sea to any Port east of the Cape of Good Hope,

shall touch at Aden, and shall not leave that Port without having obtained from the proper authority a clean bill of health.

Every Master of a Ship offending under this Section, shall, for every such offence, be liable to a fine not exceeding 2,000 Rupees, or to imprisonment not exceeding six months, or to both.

Bill of health.

XXVI. No bill of health shall be granted under Section 24 or Section 25 in case the Ship has on board a greater number of passengers or persons than in the proportion prescribed by this Act.

CHAPTER III.

COASTING STEAMERS.

Certificates to be furnished to coasting Steam Vessels intended to carry passengers.

XXVII. Steam Vessels intended to carry passengers on coasting voyages from or to any Port or place within British India, shall, before proceeding on such voyages, be furnished with certificates granted in manner hereinafter provided.

Certificates to coasting Steam Vessels how to be granted, &c.

XXVIII. Every such certificate shall be granted at the discretion of an officer authorized by the local Government to grant the same, and shall remain in force for the period therein specified, unless sooner revoked.

The officer so authorized shall not grant such certificate, or suffer the same to remain in force, unless he is satisfied, by inspection or survey (to be made at least twice in each year at the expense of the Master or Owner, and upon payment of a fee not exceeding twenty rupees), that such Steam Vessel is sea-worthy and properly equipped with boats and otherwise, and that the engines and machinery are in a fit state to enable her to proceed on her voyoge.

The certificate shall state limits (if any) within which the Vessel is to ply, and the number of Native Passengers which the Vessel is permitted to carry: such number to be subject to such conditions and variations according to the time of year, the nature of the voyage, and the cargo carried, as the case requires.

Copy of certificate to be placed in conspicuous part of Ship.

XXIX. The Owner or Master of any such Steam Vessel shall put up in a conspicuous part of the Ship, so as to be visible to persons on board the same, a copy of the said certificate, and shall cause it to be continued in such position so long as the certificate remains in force; and in default, such Owner or Master shall, for each offence, be liable to a fine not exceeding 200 Rupees, or to imprisonment for any term not exceeding a month, or to both.

Penalty for excess of number specified in certificate.

XXX. If such Steam Vessel has on board thereof any number of passengers which, having regard to the time of the year and other circumstances, is greater than the number allowed by the certificate, the Owner or Master shall, for every passenger over and above the number allowed by the certificate, be liable to a fine not exceeding twenty rupees, or to imprisonment not exceeding one week, or to both.

Penalty for proceeding without certificate.

XXXI. If any Steam Vessel shall proceed on any such voyage without such certificate as aforesaid, the Owner or Master shall be liable to a fine not exceeding 500 Rupees, or to imprisonment for any term not exceeding three months, or to both.

Grant or revocation of certificate to be subject to control of Government.

XXXII. In the grant or revocation of any certificate under this Act, the officer granting or revoking the same shall be subject to the control of the local Government or of any intermediate authority which that Government may appoint.

CHAPTER IV.

MISCELLANEOUS.

Penalty on landing passenger at a place other than that at which he has contracted to land.

XXXIII. If any Native passenger in any Ship shall be landed at any Port or place other than the Port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall, for each offence, be liable to a penalty not exceeding 200 Rupees, or to imprisonment for any term not exceeding a month, or to both.

Passenger's right of action preserved.

XXXIV. Nothing in this Act contained shall take away or abridge any right of action which may accrue to any Native passenger, or to any other person in respect of the breach for non-performance of any contract made with the Master or Owner of the Ship or his Agent.

Adjudication of offences.

XXXV. All offences against this Act shall be punishable in a summary manner by a Magistrate.

Fine leviable by distress on ship.

If the person on whom any fine is imposed under this Act is the Master or Owner of a Ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said Ship, her tackle, furniture and apparel.

Jurisdiction.

XXXVI. For the purpose of the adjudication of penalties under this Act, every offence hereunder shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

By whom proceedings for penalties to be instituted.

XXXVII. The penalties to which Masters and Owners of Ships are liable by this Act, shall be enforced only by information laid at the instance of the officers appointed to grant certificates under this Act; or, at any Port or place where there is no such officer, by the Chief Officer of Customs.

Application of fines.

XXXVIII. Any Magistrate imposing any fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such fine is imposed, or in or towards payment of the expenses of the proceedings.

ACT No. XIII. OF 1870.

An Act to apply the provisions of Act XVIII. of 1854 to Railways belonging to, or worked by, Government.

Application of Railway Act to Railways belonging to Government but worked by Companies.

I. Act XVIII. of 1854 *(relating to Railways in India)* shall apply to all Railways now or hereafter belonging to Government, but worked by a Railway Company, in the same manner as if such Railways belonged to the Company and had been opened by the Company in manner mentioned in the preamble to the said Act.

Application of Railway Act to Railways worked by Government.

II. Subject to the modifications hereinafter mentioned, the said Act shall apply to all Railways now or hereafter worked by Government in the same manner as if such Railways had been opened by a Railway Company in manner aforesaid.

Modifications of Act when applied to Railways worked by Government.

III. In applying the said Act to any Railway now or hereafter worked by Government,

the expressions "servant of the Company," "such servant," such servant of the Company," "servant of the said Company," "Company's servants," "servants of the Company," "their servant," and "any of their servants," shall mean a servant or servants employed on such Railway:

the expressions "officer or servant of such Railway Company," "officer or servant of such Company," "officer or servant of the Company," "servant or officer of the Company," and "such officer or servant" shall mean an officer or servant employed on such Railway:

the expressions "the premises of any such Railway Company," "the premises of the Company," "premises belonging to the Company," "lands belonging to such Railway Company," and "lands, stations or other premises belonging to the Company," shall mean the premises, lands or stations (as the case may be) occupied by or for such Railway:

the expression "delivered to such Railway Company" shall mean "delivered to an officer on behalf of Government," and the expression "engagements on behalf of the said Railway Company" shall mean engagements on behalf of Government:

Sections 9 and 10 shall be read as if, for the expression "No such Railway Company shall," the expression "The Government shall not" were substituted:

the expressions "any such Railway Company," "such Railway Company," "any such Company," and "the Company," shall mean, in Sections 3, 6, 8, 11, 12, 15, 22, 27 and 30, the Government;

but in Sections 17, 19, 20, 21, 23, 41 and 42, the expressions "Railway Company," "such Railway Company," "the Company," and "they" (when referring to a Company) shall mean the officer for the time being entrusted with the control of such Railway:

in Section 20 the expression "their railway" shall mean such Railway:

and Section 29 shall be read as follows:—

"XXIX. In the construction of this Act, every officer and servant employed on such Railway shall be deemed to be legally bound to do everything necessary for or conducive to the safety of the public, which he shall be required to do by any regulation made by the officer for the time being entrusted with the control of such Railway, and allowed by the Governor-General of India in Council, and of which regulation such officer or servant shall have notice;

and every such officer and servant shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger and which by any such regulation he shall be prohibited from doing;

and every person employed by or on behalf of the Government to do any act upon the Railway shall be deemed to be a servant employed on such Railway."

ACT No. XIV. OF 1870.

An Act for repealing certain enactments which have ceased to be in force, or have become unnecessary.

Preamble.

Whereas it is expedient that certain enactments (mentioned in the Schedule to this Act) which have ceased to be in force otherwise than by express and specific repeal, or have by lapse of time and change of circumstances become unnecessary, or which merely repeal prior enactments, should be expressly and specifically repealed; It is hereby enacted as follows:

Enactments in schedule repealed.

I. The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of the Schedule:

Provided that the repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to:

And this Act shall not affect the validity or invalidity of anything already done or suffered, or any indemnity already granted, or any right or title already acquired or accrued, or any remedy or proceeding in respect thereof, or the proof of any past act or thing:

Nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized, or derived by, in or from, any enactment hereby repealed:

Nor shall this Act provide or restore any jurisdiction, office, custom, privilege, restriction, exemption, usage or practice not now existing, or in force.

Short Title.

II. This Act may be called "The Repealing Act, 1870."

SCHEDULE.

PART I.—STATUTES.

Year and chapter.	Title.	Extent of repeal.
13 Geo. III, cap. lxiii.	An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe.	Sections 16, 19, 20, 27, 28, 29, 31, 33, and 36, and Section 38 from and including the words 'and for that purpose' to the end of the Section.
21 Geo. III, cap. lxx.	An Act to explain and amend so much of an Act, made in the thirteenth year of the reign of His present Majesty, intituled, An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe, as relates to the administration of justice in Bengal; and for the relief of certain persons imprisoned at Calcutta in Bengal, under a judgment of the Supreme Court of Judicature; and also for imdemnifying the Governor-General and Council of Bengal, and all officers who have acted under their orders or authority, in the undue resistance made to the process of the Supreme Court.	Sections 9 to 16 (both inclusive.) Sections 19 to 26 (both inclusive).
33 Geo. III, cap. lii.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with their exclusive trade, under certain limitations; for establishing further regulations for the government of the said territories, and the better administration of justice within the same; for appropriating to certain uses the revenues and profits of the said Company; and for making provision for the good order and government of the towns of Calcutta, Madras and Bombay.	Section 61. Section 137 from and including the words 'nor shall it be lawful for any of His Majesty's subjects' to the end of the Section. Sections 155 and 159.

SCHEDULE—(*Continued*).

PART I.—STATUTES.

Year and chapter.	Title.	Extent of repeal.
37 Geo. III, cap. oxlii.	An Act for the better administration of justice at Calcutta, Madras and Bombay; and for preventing British subjects from being concerned in loans to the Native Princes of India.	Sections 4 to 8 (both inclusive), Sections 15, 17 to 26 (both inclusive), Section 30.
39 & 40 Geo III, cap lxxix.	An Act for establishing further regulations for the government of the British territories in India, and the administration of justice within the same.	Sections 4, 6, 8, 10, 11, 17, 18, 19, 21, 22, 23 and 24.
53 Geo. III, cap. clv.	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with certain exclusive privileges; for establishing further regulations for the government of the said territories, and the better administration of justice within the same; and for regulating the trade to and from the places within the limits of the said Company's Charter.	Sections 98, 99, 101, 104, 108, 109, 113 and 122.
54 Geo. III, cap. cv.	An Act to remove doubt as to the Duties and Taxes heretofore imposed and levied under the authority of the several Governments in the East Indies.	The whole.
55 Geo. III, cap. lxxxiv.	An Act to amend so much of an Act of the thirty-third year of His present Majesty, as relates to fixing the limits of the Towns of Calcutta, Madras and Bombay; and also so much of an Act of the thirty-ninth and fortieth year of His present Majesty, as relates to granting Letters of Administration to the effects of persons dying intestate within the several Presidencies in the East Indies, to the Registrar of the Ecclesiastical Courts; and to	The whole Act, except Section 1.

SCHEDULE—(*Continued*).

PART I.—STATUTES.

Year and chapter.	Title.	Extent of repeal.
55 Geo. III, cap. lxxxiv (*continued*)	enable the Governor in Council of the said Presidencies to remove persons not being British subjects; and to make provision for the Judges in the East Indies in certain cases.	
4 Geo IV, cap lxxi.	An Act for defraying the charge of retiring pay, pensions, and other expenses of that nature, of His Majesty's Forces serving in India; for establishing the pensions of the Bishop, Archdeacons and Judges; for regulating ordination; and for establishing a Court of Judicature at Bombay.	Sections 8, 9, 10 and 14.
5 Geo. IV, cap cviii.	An Act for transferring to the East India Company certain possessions newly acquired in the East Indies, and for authorizing the removal of convicts from Sumatra.	Section 2.
6 Geo. IV, cap. lxxxv.	An Act for further regulating the payment of the Salaries and pensions to the Judges of His Majesty's Courts in India, and the Bishop of Calcutta; for authorizing the transportation of offenders from the Island of Saint Helena; and for more effectually providing for the administration of justice in Singapore and Malacca, and certain Colonies on the Coast of Coromandel.	Section 6.
7 Geo IV, cap. xxxvii.	An Act to regulate the appointment of juries in the East Indies.	So much as has not been repealed.
9 Geo. IV, cap. xxxiii.	An Act to declare and settle the law respecting the liability of the real estates of British subjects and others, situate within the jurisdiction of His Majesty's Supreme Courts in India, as	The whole Act, except as to the estates of persons dying before the 1st day of January, 1866.

SCHEDULE—*(Continued.)*

PART I.—STATUTES.

Year and chapter.	Title.	Extent of repeal.
9 Geo IV, cap xxxiii—*(contd)*	assets in the hands of executors and administrators, to the payment of the debts of their deceased owners.	
11 Geo. IV, & 1 Wm. IV, cap lxxv.	An Act for the relief of the sufferers by the insolvency of Gilbert Ricketts, Esquire, formerly Registrar of the Supreme Court of Judicature at Madras.	The whole.
5 & 6 Wm IV, cap. vi.	An Act to indemnify the Governor-General and other persons in respect of certain acts done in the administration of the Government of the British Territories in the East Indies subsequent to the 22nd day of April, 1834, and to make those acts valid.	The whole Act so far as it relates to British India.
11 & 12 Vict., cap xxi.	An Act to consolidate and amend the laws relating to insolvent debtors in India.	Sections 1, 65, 66 and 67.
17 & 18 Vict, cap civ.	An Act to amend and consolidate the Acts relating to Merchant Shipping.	Section 9 so far as it relates to British India.

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
X. of 1836 ...	Indigo contracts	Section 1.
XX. of 1836 ...	Revenue Sale law	Section 1 and 4.
VI. of 1837 ...	Land Revenue (Cuttack) ...	Section 2.
XXXVI. of 1837	Madras Criminal Jurisdiction Act	In Section 1, the words and figures 'It is hereby enacted that from the 15th day of December, 1837,' and in Section 2, the words 'from the said day.'
XI. of 1838 ...	Amíns, Bengal	Section 1, and in Section 2, the words 'And it is hereby enacted that.'
XVI. of 1838 ...	Bombay—Judiciary... ..	In Section 1, Clause 1, the words 'It is hereby enacted, in modification of the rules contained in Chapter VIII, Regulation XVII. of 1827, of the Bombay Code, that.'
		In Section 5, the words 'without further costs of stamps to the parties except on new exhibits if any such should be allowed to be filed,' and from and including the words, 'but if an appeal' to the end of the Section.

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XIX. of 1838 ..	Bombay Coasting vessels ...	Section 1.
XXIX of 1838 ...	Salt Department, Bengal ...	Section 1.
XXXII. of 1838	Justices of the Peace ...	Sections 2 and 3.
VII of 1839 ..	Tahsildars, Madras	Section 1.
XXIV. of 1839 ...	Ganjam and Vizagapatam ...	Section 1.
XVI. of 1840 ...	An Act concerning the management of convicts transported to places within the territories of the East India Company.	Section 4.
XI. of 1841 ...	An Act for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the service of the East India Company	The first twenty-one words in Section 1. Section 18.
XII. of 1841 ...	An Act for amending the Bengal Code in regard to sales of land for arrears of revenue.	Section 1.
XXIX. of 1841 ..	An Act for amending such parts of the Bengal and Madras Codes as concern the dismissal of suits and appeals for neglecting to proceed in the same.	Section 3 down to and including the words 'are repealed, and.'
XVII. of 1842 ...	An Act relative to the number and powers of the Revenue Commissioners under the Presidency of Bombay.	Section 1, and in Sections 2 and 3 the words 'and it is hereby enacted that.'
XI. of 1843 ..	An Act for regulating the service of hereditary officers under the Presidency of Bombay.	Section 1.
XI. of 1844 ..	An Act for the improvement of the administration of Justice and despatch of business in the Supreme Court of Judicature at Fort William in Bengal.	The whole.

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XVI. of 1844 ..	An Act for increasing the Excise and Import Duties heretofore payable to the Government on salt manufactured within or imported into the territories subject to the Government of the Presidency of Bombay.	Sections 1, 3 and 5.
XVIII. of 1844 ...	An Act for the better control and management of gaols within the Bengal Presidency.	Section 1, and in Section 2 the words 'And it is hereby enacted that.'
XX. of 1844 ...	An Act to amend the law relating to advances *bonâ fide* made to Agents intrusted with goods, by extending to the territories of the East India Company, in cases governed by English Law, the provisions of the Statute 5 and 6 Victoria, cap. 39, as altered by this Act.	Section 9.
XV. of 1845 ...	An Act for declaring and enacting the privileges of Native Officers and Soldiers of the Armies of the three Presidencies in respect of judicial and revenue proceedings.	Section 6.
VIII. of 1846 ...	An Act for determining the duration of the existing Settlement of the North-Western Provinces.	Section 1 so far as it relates to Hissar, Saharanpore, Moozuffernugger, Meerut, Bulundshuhur, Allyghur, Bijnore, Budaon, Bareilly, Shajehanpore, Furruckabad, Allahabad, Goruckpore, and Azimgurh.
I. of 1847 ...	An Act for the establishment and maintenance of Boundary Marks in the North-Western Provinces of Bengal.	In Section 6, the words and figures 'under Act IV. of 1840.'

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year	Title.	Extent of repeal.
IX. of 1847 ..	An Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Behar and Orissa.	Section 8.
XX of 1847 ...	An Act for the encouragement of learning in the territories subject to the Government of the East India Company, by defining and providing for the enforcement of the right called copy-right therein	Section 17.
IV. of 1848 ..	An Act for regulating Coroner's Juries.	In Section 2, the words and figures 'according to the provisions of Act II. of 1839.'
XVI. of 1848 ..	An Act to remove certain restrictions on the salt trade.	The whole.
XVIII. of 1848 ...	An Act for the administration of the estate of the late Nawab of Surat, and to continue privileges to his family.	Sections 3 and 4.
I. of 1849 ...	An Act to provide more effectually for the punishment of offences committed in Foreign States	Section 1.
VI. of 1849 ...	For securing Military and Naval pensions and superannuation allowances.	Sections 1 and 4.
XI. of 1849 ...	For securing the Abkaree revenue of Calcutta.	Section 1.
IX. of 1850 ..	An Act for the more easy recovery of small debts and demands in Calcutta, Madras and Bombay.	Section 7. In Section 17, the words 'by action of debt or on the case.'
XI. of 1850 ...	An Act to amend Act X., 1841.	Section 1.
XII of 1850 ...	For avoiding loss by the default of Public Accountants.	Section 6.

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XIX. of 1850 ...	Concerning the binding of apprentices.	Section 6.
XXV. of 1850 ...	An Act for the forfeiture to Government of deposits made on incomplete sales of land under Regulation VIII., 1819, and Act IV., 1846.	Section 1.
XXVI. of 1850 ...	An Act to enable improvements to be made in towns.	Section 1.
XXXIII. of 1850.	An Act for amending the forms necessary for the sale of Putnee Tenures in Bengal.	Sections 2 and 3.
XXXVII. of 1850	For Regulating inquiries into the behaviour of public servants.	Section 1.
XLIV. of 1850 ..	An Act for consolidating the Board of Customs, Salt and Opium, and the Sudder Board of Revenue in the Lower Provinces of Bengal.	Section 1.
VI of 1851 ...	Respecting certain land in Bombay called Foras Land.	The whole.
VIII. of 1851 ..	An Act for enabling Government to levy tolls on public roads and bridges.	Section 1.
V. of 1852 ...	An Act for giving effect to the provisions of an Act of Parliament, passed in the 15th year of the reign of Her present Majesty intituled "An Act for Marriages in India.	Section 26.
XV. of 1852 ...	An Act to amend the Law of. Evidence.	Section 14.
XVI. of 1852 ..	An Act for further improving the administration of Criminal Justice in Her Majesty's Courts of Justice in the territories of the East India Company.	Sections 10 and 27.

SCHEDULE—*(Continued)*.

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XIX. of 1852 ...	An Act for securing the Abkaree revenue of Madras.	Section 1.
XXIII. of 1852 ...	To authorize and empower the Governors in Council of the respective Presidencies of Madras and Bombay to mitigate or discharge fines, amerciaments, &c., imposed by the Supreme Courts or any other Courts of Justice at Madras and Bombay respectively.	The preamble and Section 1.
XXIX. of 1852 ...	An Act to amend the law respecting the Circuits of Judicial Commissioners in the Presidency of Bombay.	Section 1.
XI. of 1853 ...	An Act to facilitate the removal of Nuisances and Encroachments below High-water Mark in the Islands of Bombay and Colaba.	In Section 7, the words 'the East India Company as trustees for.'
XX. of 1853 ...	An Act to amend the law relating to Pleaders in the Courts of the East India Company.	Section 1.
V. of 1854 ...	An Act to amend Act V. of 1838, relating to the Bengal Bonded Warehouse Association.	Section 1.
VII. of 1854 ...	An Act for the apprehension, within the territories under the Government of the East India Company, of persons charged with the commission of heinous offences beyond the limits of the said Territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them.	Section 24.
XIII. of 1854 ...	An Act to repeal Act VI. of 1852, and to make provision for defraying the cost of the	Section 1.

SCHEDULE—*(Continued)*.

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XIII of 1854 ... (*continued*).	Light House on Pedra Branca, and for maintaining the same, and also a Floating Light established in the Straits of Malacca, to the west of Singapore, and for the establishment and maintenance of such further Lights in or near to the said Straits as may be deemed expedient.	
XVI. of 1854 ...	An Act to amend Regulation XI. of 1831 of the Bengal Code.	Section 1.
XVIII. of 1854 .	An Act relating to Railways in India.	Section 39.
XXIV. of 1854...	An Act to prohibit the possession of certain offensive weapons in Malabar.	In Section 1, from and including the words 'and every person' to the end of the Section. In Section 2, the words 'after such date.'
XXVII. of 1854..	An Act to amend the law relating to the Nazim of Bengal.	Section 1.
XXX. of 1854 ...	An Act to provide for the levy of duties of Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces.	Sections 1 and 12.
XXXI. of 1854 ..	An Act to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land in cases to which the English Law is applicable.	Section 1.
II. of 1855 ...	An Act for the further improvement of the Law of Evidence.	Section 17.
XXII. of 1855,..	An Act for the regulation of Ports and Port-dues.	Section 1, and in Section 35, the words 'or of the Honorable East India Company.' Section 43.

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XXIV. of 1855...	An Act to substitute penal servitude for the punishment of Transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts.	Section 16.
XXVI. of 1855...	An Act to facilitate the payment of small deposits in Government Savings' Banks to the representatives of deceased depositors.	So much of Section 5 as relates to persons dying in the service or in the Marine service of the East India Company.
XXVIII. of 1855.	An Act for the repeal of the Usury Laws.	Sections 1, 7 and 8 and the Schedule.
XXXII of 1855...	An Act relating to embankments.	Section 1.
XXXVII. of 1855.	An Act to remove from the operation of the general Laws and Regulations certain Districts inhabited by Sonthals and others, and to place the same under the superintendence of an officer to be specially appointed for that purpose.	Section 6.
VIII. of 1856 ...	An Act for the better control of the gaols within the Presidencies of Fort St. George and Bombay.	Section 1.
XI. of 1856 ...	An Act for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty and of the East India Company in India.	In the title and the preamble, the words 'and of the East India Company.'
XII. of 1856. ...	An Act to amend the law respecting the employment of Ameens by the Civil Courts in the Presidency of Fort William.	Section 1.
XIII. of 1856 ...	An Act for regulating the Police of the towns of Calcutta, Mad-	Section 1 from the beginning down to

SCHEDULE—*(Continued).*

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XIII. of 1856 ... *(continued).*	ras and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.	and including the words 'operation, and.' And the Schedule.
XX. of 1856 ...	An Act to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal.	Section 1 from the beginning down to and including the words 'provided that.'
XXI. of 1856 ...	An Act to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.	Sections 1 and 89.
III. of 1857 ...	An Act relating to trespass by Cattle.	Sections 1 and 22.
IV. of 1857 ..	An Act to amend the law relating to the duties payable on Tobacco, and the retail sale and warehousing thereof in the town of Bombay.	Section 1. In Section 5, the words and figures 'within the meaning of Act XXV. of 1836.'
X. of 1857 ...	An Act to amend Act XXXVII. of 1855.	Section 1 from the beginning down to and including the words 'this Act; and.'
XIII. of 1857 ...	An Act to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal.	Section 1.
XXIX. of 1857...	An Act to make better provision for the collection of Land Customs on certain foreign frontiers of the Presidency of Bombay.	Section 1.

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XXX. of 1857 ...	An Act for the levy of Port-dues and fees in the Port of Calcutta.	Section 7 from the beginning down to and including the words 'said date'
XXXI. of 1857...	An Act for the levy of Port-dues and fees in the Port of Bombay.	Section 6 from the beginning down to and including the words 'said date'
XXXIV. of 1857	An Act relating to the sale of Ganjah in the Presidency of Bombay.	Section 1.
XXXV. of 1857...	An Act for the levy of Port-dues in the Ports of Moulmein, Rangoon, Kyuok Phyoo, Akyab and Chittagong.	Section 5 from the beginning down to and including the words 'said date'
II. of 1858 ...	An Act for the levy of Port-dues in certain ports in the Province of Cuttack.	Section 5. Section 6 from the beginning down to and including the words 'said date'
III. of 1858 ...	An Act to amend the law relating to the arrest and detention of State Prisoners.	Section 1.
VIII. of 1858 ...	An Act for the levy of Port-dues and fees in the Port of Kurrachee.	Section 7. Section 8 from the beginning down to and including the words 'said date'
XV. of 1858 ...	An Act for the levy of Port-dues in the Port of Aden.	Section 6 from the beginning down to and including the words 'said date'
XXVIII. of 1858.	An Act for the maintenance of a Police Force for the Port of Madras.	Section 11.
XXXV. of 1858...	An Act to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature.	Section 1.

SCHEDULE.—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XL. of 1858 ...	An Act for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal.	Section 1.
I. of 1859 ...	An Act for the amendment of the law relating to Merchant Seamen.	Section 1.
III. of 1859 ...	An Act for conferring Civil Jurisdiction in certain cases upon Cantonment Joint-Magistrates, and for constituting those Officers Registers of Deeds.	In Section 11, the words 'or who shall be appointed Register of Deeds,' and the words 'and Registers of Deeds respectively,'
VIII. of 1859 ..	An Act for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.	In Section 382, the words 'in any Court of Judicature established by Royal Charter, or' Section 387.
X. of 1859 ...	An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	Sections 1 and 167.
XI. of 1859 ...	An Act to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency.	Section 1.
XII. of 1859 ...	An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.	Section 1.
XIV. of 1859 ...	An Act to provide for the limitation of suits.	Sections 18, 21, and 23, and, in Section 19, the proviso.
XVII. of 1859 ..	An Act to amend the law for the realization of revenue from Abkaree in the Island of Bombay.	Section 1.

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XX. of 1859 ...	An Act for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George.	Section 1.
XXII. of 1859 ...	An Act to amend Act I. of 1852 (for the consolidation and amendment of the laws relating to the Customs under the Presidency of Bombay).	Section 1.
XXIV. of 1859...	An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George.	Sections 2 and 3 and the Schedule down to and including the words 'said clause'
XXV. of 1859 ...	An Act to prevent the over-crowding of Vessels carrying Native passengers in the Bay of Bengal.	Section 19.
II. of 1860 ...	An Act to amend the law relating to the carriage of Passengers by Sea.	In Section 1, the words and figures 'under Act XV. of 1842,' 'under Act XXI. of 1844,' 'under Act XXXI. of 1855.'
VIII. of 1860 ...	An Act for regulating the establishment and management of Electric Telegraphs in India.	Section 1.
XXIII. of 1860...	An Act to amend Act XXI. of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal).	Section 1 from the beginning down to and including the word 'repealed' and the Schedule.
XXV. of 1860 ...	An Act for the levy of Port-dues in the Port of Bassein.	Section 5 from the beginning down to and including the words 'said date'

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XXVIII. of 1860.	An Act for the establishment and maintenance of boundary marks, and for facilitating the settlement of boundary disputes in the Presidency of Fort St. George.	Sections 1 and 33.
XXXI. of 1860...	An Act relating to the manufacture, importation and sale of arms and ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases.	Sections 1, 52 and 55.
XLV. of 1860 ...	The Indian Penal Code ...	In Section 5, the words 'or of the East India Company, or of any Act for the government of the Indian Navy,'
XLVI. of 1860 ...	An Act to authorize and regulate the emigration of Native labourers to the French Colonies	Section 1.
XLVIII. of 1860..	An Act to amend Act XIII. of 1856 (for regulating the Police of the towns of Calcutta, Madras and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca).	Section 1 from the beginning down to and including the words 'repealed, and'
L. of 1860 ...	An Act to amend the law relating to vacations in the Civil Courts within the Presidency of Fort William in Bengal.	Section 1.
X. of 1861 ...	An Act to repeal certain Regulations and Acts relating to the procedure of the Courts of Civil Judicature not established by Royal Charter.	The whole.

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XIV. of 1861 ...	An Act to remove certain tracts of country in the Rohilcund Division from the jurisdiction of the tribunals established under the general Regulations and Acts.	In Section 4, the words 'shall not call for the futwah of its Law Officer, and' Section 7.
XVI. of 1861 ...	An Act for licensing and regulating stage carriages.	Section 22.
XVII. of 1861 ...	An Act to amend Act XIV. of 1843 (for regulating the Customs Duties in the North-Western Provinces)	Section 3.
XIX. of 1861 ...	An Act to provide for a Government Paper Currency.	In the preamble, from and including the words 'and whereas due notice' down to and including the words 'hereinafter provided;' Section 1. In Section 2, the words 'after the passing of this Act,' and the words 'except the Banks of Bengal, Madras and Bombay up to the said 1st day of March, 1862, and'
XXIII. of 1861...	An Act to amend Act VIII. of 1859 (for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.)	Sections 1 and 43.
XXV. of 1861 ...	An Act for simplifying the procedure of the Courts of Criminal Judicature not established by Royal Charter.	Section 445, except so far as it empowers the Governor-General in Council to extend the Act.

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
IV. of 1862 ...	An Act for regulating the Bank of Bengal.	Sections 1 and 42, and the second proviso in Section 11.
XIII. of 1862 ...	An Act to provide for a new Silver and a new Copper Coinage.	Section 1.
XX. of 1862 ...	An Act to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain Sections of Act VIII. of 1859 in the said High Court.	Sections 7, 11 and 12.
XXIII. of 1862...	An Act to amend Act XI. of 1862 (to amend the duties of Customs on goods imported and exported by sea).	The whole.
I. of 1863 ...	An Act to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said territory.	Sections 1 and 28.
VI. of 1863 ...	An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.	Sections 2 and 230.
VIII. of 1863 ...	An Act for the amendment of the law relating to the confinement of prisoners sentenced by Courts acting under the authority of Her Majesty, and by certain other Courts, and of prisoners convicted of offences in Native States.	Section 1.
XII. of 1863 ...	An act to bring the Pergunnahs of Mahoba and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations.	Sections 2, 3, 4, 5 and 6.

SCHEDULE.—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XV. of 1863 ...	An Act to amend Act I. of 1859 (for the amendment of the law relating to Merchant Seamen).	Section 1.
XIX. of 1863 ...	An Act to consolidate and amend the law relating to the partition of estates paying revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal.	Section 1, and the first eight words of Section 2. Section 50.
XX. of 1863 ...	An Act to enable the Government to divest itself of the management of Religious Endowments.	Section 1.
XXIV. of 1863 ..	An Act to amend Act I of 1863 (to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said territory).	Sections 4 and 5.
VII. of 1864 ...	An Act for regulating the importation and manufacture of alimentary salt, in the territories administered by the Chief Commissioner of the Central Provinces.	Section 1.
XII. of 1864 ...	An Act to give further effect to the provisions of Act IV. of 1863 (to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah).	Section 2.
XIII. of 1864 ...	An Act to consolidate and amend the laws relating to the emigration of Native labourers.	Sections 1 and 84, and Schedule A.
XVII. of 1864 ...	An Act to constitute an Office of Official Trustee.	Section 2.

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XXII. of 1864 ...	An Act to make provision for the Administration of Military Cantonments.	Sections 2, 37 and the Schedule.
XXIV. of 1864 ...	An Act relating to the Administration of certain Districts under the Government of the Lieutenant-Governor of the North-Western Provinces.	Section 15.
XXVIII. of 1864.	An Act to provide for the extension of Act XXI. of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal) to the provinces under the control of the Lieutenant-Governor of the Punjab.	Section 3.
XI. of 1865 ...	An Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature.	Section 2 from the beginning down to and including the words 'Provided that' And from and including the words 'and all suits' down to the end of the Section.
XIII. of 1865 ...	An Act to amend the procedure of Her Majesty's High Courts of Judicature in the exercise of their origingal criminal jurisdiction, and to provide for the exercise of such jurisdiction at places other than the Presidency Towns.	In Section 9, the words 'From and after the date on which this Act shall come into operation,' and in Sections 22, 23, 24 and 44, the words 'From and after the commencement of this Act,' Sections 45 and 46.
XIV. of 1865 ...	An Act to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.	Section 24.

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year	Title.	Extent of repeal.
XV. of 1865 ...	An Act to define and amend the law relating to Marriage and Divorce among the Parsees.	In Section 7, the words 'who may be the Registrar appointed under Act XVI of 1864 *(to provide for the registration of assurances)*.' In section 53, the words 'shall commence and take effect on the first day of September, 1865, and'
XIX. of 1865 ..	An Act to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies.	Sections 24 and 25.
XX. of 1865 ..	An Act to amend the law relating to Pleaders and Mookhtars.	Section 3 and the first Schedule.
IV. of 1866 ...	An Act to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.	Sections 45, 52 and 54
V. of 1866 ..	An Act to provide a summary procedure on Bills of Exchange and to amend in certain respects the Commercial Law of British India.	In Section 2, the words 'From and after the first day of May 1866.'
X of 1866 ...	The Indian Companies' Act ...	Sections 219, 220, 221 and 222, and the third Schedule.
XI. of 1866 ...	An Act to repeal Act IV. of 1855 (for incorporating for a further period, and for giving further powers to the Assam Company).	The whole.
XIV. of 1866 ...	The Indian Post Office Act, 1866	In Section 1, the words 'shall come into operation on the first day of May, 1866, and' Section 3.

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year	Title.	Extent of repeal.
XX. of 1866 ...	The Indian Registration Act, 1866.	Section 3 and Section 98 from the beginning down to and including the word 'notwithstanding.' Section 102.
XXII. of 1866 ...	An Act to extend the Indian Marriage Act, 1865, to the Hyderabad Assigned Districts, and the Cantonments of Secunderabad, Trimulgerry and Aurungabad.	In Section 1, the words 'From and after the passing of this Act'
XXVI. of 1866...	An Act to legalize the rules made by the Chief Commissioner of Oudh for the better determination of certain claims of subordinate proprietors in that Province.	Section 2.
XXVII of 1866...	An Act to consolidate and amend the law relating to the conveyance and transfer of property in British India vested in mortgagees and trustees, in cases to which English law is applicable.	Section 1.
XII. of 1867 ...	An Act to amend the law relating to the custody of prisoners within the local limits of the orginal jurisdiction of Her Majesty's High Courts of Judicature at Fort William in Bengal, Madras and Bombay.	Section 2 and the Schedule.
XVIII of 1867...	An Act to define the jurisdiction of the Courts of Civil Judicature in the Jhánsí Division.	Section 2.
XXIV. of 1867...	An Act to consolidate and amend the law relating to the office and duties of Administrator-General.	Section 2 and the Schedule.

SCHEDULE.—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XXV. of 1867 ..	An Act for the regulation of Printing-presses and News-papers, for the preservation of copies of books printed in British India, and for the registration of such books	Sections 2 and 23.
XXXIV. of 1867...	An Act to repeal Act XIX. of 1866 in the places to which the Madras Salt Excise Act, 1867, may be made applicable.	The whole.
XXXV. of 1867...	An Act to provide temporary assistance to the Financial Commissioner of the Punjab.	The whole.
III. of 1868 ...	An Act to authorize the local Government of the Punjab to invest any person with the powers of an Assistant Commissioner or Tahsildar.	Section 3.
VIII. of 1868 ...	An Act for repealing certain enactments which have ceased to be in force or have become unnecessary.	The whole.
XI. of 1868 ...	An Act to exempt Timber and Woods from Import Duty.	The whole.
XIII. of 1868 ..	An Act to exempt the King of Oudh from the jurisdiction of the Civil Courts, and for other purposes.	Section 1.
XVI. of 1868 ...	An Act to consolidate and amend the law relating to Principal Sadr Amins, Sadr Amins and Munsifs in Bengal, and for other purposes.	Section 1 and Schedule.
XVII. of 1868 ...	An Act to appoint a Commission to enquire into the failure of the Bank of Bombay.	The whole.

SCHEDULE—(*Continued*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
XVIII. of 1868...	An Act for investing the Commissioner and Assistant Commissioner of the Neilgherry Hills with the powers of a Court of Small Causes.	Section 5.
XIX. of 1868 ...	An Act to consolidate and amend the law relating to rent in Oudh.	Section 2.
XX. of 1868 ...	An Act to give validity to the levy of certain duties in Lucknow.	The whole.
XXIII. of 1868...	An Act to give validity to certain Abkaree Rules in British Burmah.	In the preamble, the words 'and to indemnify all officers, farmers and other persons who have acted under them, or under any such rules previously published or enforced under the same authority' And Section 2.
XXV. of 1868 ...	An Act to define the jurisdiction of the Courts in Croog.	Section 24.
XXVIII. of 1868.	An Act to define and amend the law relating to the tenancy of land in the Punjab.	Section 4.
II. of 1869 ...	An Act for the appointment of Justices of the Peace.	Section 2 and the Schedule.
III. of 1869 ...	An Act for the maintenance of the Rural Police in the North-Western Provinces.	Section 2.
V. of 1869 ...	The Indian Articles of War.	Part I, clause (*c*), paragraphs 1, 2, and 3.
VI. of 1869 ...	An Act to amend the law relating to the emigration of Native labourers.	Sections 10 and 11.

SCHEDULE—(*Concluded*).

PART II.—ACTS.

Number and year.	Title.	Extent of repeal.
VII. of 1869 ...	An Act to give validity to certain Rules relating to Forests in British Burmah.	In the preamble, the words 'and to indemnify the officers and other persons who have acted under them;' Section 2.
VIII. of 1869 ...	An Act further to amend the Code of Criminal Procedure.	Section 2, paragraph 1.
XI. of 1869 ...	An Act to make better provision for the collection of Land Customs on certain foreign frontiers of the Presidencies of Fort St. George and Bombay.	Section 2.
XIV. of 1869 ...	Act Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in the Presidency of Bombay.	Section 2 and the Schedule.
XVIII. of 1869 .	An Act for imposing Stamp Duties on certain Instruments.	Section 2 and the third Schedule.
XX. of 1869 ...	An Act to provide for the good order and discipline of Volunteer Corps, and to invest them with certain powers.	Section 3.
XXII. of 1869 ...	An Act to remove the Gáro Hills from the jurisdiction of the tribunals established under the general Regulations and Acts, and for other purposes.	Sections 2 and 3.
XXIV. of 1869...	An Act to enhance the price of Salt in the Presidency of Fort St. George and the duty on Salt in the Presidency of Bombay.	Section 1.
VII. of 1870 ...	The Court Fees' Act.	Section 2 and the third Schedule.

ACT No. XV. OF 1870.

An Act for the further amendment of Act XIX. of 1861.

Preamble. For the purpose of further amending Act XIX. of 1861 *(to provide for a Government Paper Currency)*; It is hereby enacted as follows:

Amendment of Act XIX. of 1861, *Section* 4. I. In Section 4 of the said Act, the words "who may be the Master of the Mint at Calcutta" and the words 'who may be the Master of the Mint at Madras and the Master of the Mint at Bombay' shall be repealed.

Amendment of Section 10. II. Section 10 of the said Act shall be read as if, for the words 'four crores,' the words 'six crores' were substituted.

ACT No. XVI. OF 1870.

PART I.

PRELIMINARY.

1. Short Title. Extent of Act. Commencement and continuance of Act.
2. Repeal of Acts.
3. Interpretation Clause.
4. Exemptions from Act.
5. Power to exempt from Act.

PART II.

DUTIES ON OFFICES.

6. Duties on offices.
7. Exemption of incomes less than Rs. 41-10-8 per mensem.
8. Deduction in case of Government officials and pensioners.
9. Deduction in case of servants and pensioners of Companies and Municipalities. Payment to Government. Indemnity. Annual return by Treasurer, &c.
10. Difference between duty under this Act for April 1870, and duty under Act IX. of 1869.

PART III.

COMPANIES.

11. Shipping Companies. Other Companies. Statement of result of accounts. Annual return of nett profits. Indemnity.

PART IV.

DUTIES ON ALL OTHER INCOME AND PROFITS.

12. Duty on income not charged under Part II. or Part III.
13. Trustees, guardians and committees of incapacitated persons to be charged. Non-residents charged in names of their agents.
14. Trustees or agents of persons incapacitated or non-resident to furnish statements of income or profits with declaration.
15. Receivers, Managers, Courts of Wards, Administrators General, and Official Trustees.
16. Power to retain duties charged on trustees, &c. Indemnity.
17. Notice requiring returns.
18. Return how made.
19. List of lodgers and employees.
20. Collector to determine persons chargeable.
21. Computation when assessee becomes chargeable within year.
22. Notice to persons chargeable.
23. Officer to grant receipts.
24. Contents of receipt.
25. Petition against assessment. Proviso. Form and verification of petitions.
26. Hearing of petition.
27. Appeal to Commissioner from order on petition. Documents to accompany appeal. Copies of petition and order exempt from fees. Return of fees and excess.
28. Power to summon person to give necessary information.
29. Power to issue fresh notice.

PART V.

PENALTIES.

30. Treasurers, &c., failing to make payments or deliver returns. Trustees, &c., failing to deliver statements or declarations.
31. Failure to pay amount of assessment. Grant of receipt on recovery of fine.
32. False statement in declaration, list or petition.
33. Prosecution to be at instance of Collector.
34. Mode of recovering fines.
35. Sections 193 and 228 of Penal Code to apply to proceedings.

PART VI.

PAYMENT.

36. Tax when payable. Payment by instalments.
37. Death or insolvency of person paying instalment. Firm paying instalment and dissolving partnership or becoming insolvent.
38. Recovery of subsequent instalment.
39. Optional recovery under revenue-law.
40. Payment of taxes levied and fines recovered under this Act.

PART VII.

MISCELLANEOUS.

41. Exercise of powers of Collector and Commissioner.
42. Service of notices.
43. Power to declare principal place of business. Power to declare residence.
44. Governor-General in Council empowered to prescribe forms.
45. Governor-General in Council empowered to make rules.
SCHEDULE I. Duties.
SCHEDULE II. Form of petition under Section 25.
SCHEDULE III. Enactments repealed.

An Act for imposing duties on Income and Profits.

Preamble. For the purpose of imposing duties on income and profits arising from offices, property, professions and trades; It is hereby enacted as follows:

PART I.

PRELIMINARY.

Short Title. I. This Act may be called "The Indian Income Tax Act:"

Extent of Act. It extends to the whole of British India;

Commencement and continuance of Act. It shall be deemed to have come into operation on the 1st day of April, 1870, and it shall cease to be in force on the 31st day of March, 1871, except as to taxes and penalties then due and incurred thereunder.

Repeal of Acts. II. On and from the said 1st day of April, 1870, the Acts mentioned in the third Schedule hereto shall be deemed to have been and shall be repealed to the extent specified therein, except as to taxes due under any of such Acts.

The references made in the Court Fees' Act, Schedule II, to the Indian Income Tax Act shall be deemed to be made to this Act.

Interpretation Clause. III. In this Act—unless there be something repugnant in the subject or context—

"Magistrate." "Magistrate" means any person exercising the powers of a Magistrate, or of a Subordinate Magistrate of the first Class, and includes a Magistrate of Police and a Justice of the Peace:

"Company." "Company" means an Association carrying on business in British India whose stock or funds is or are divided into shares and transferable, whether such Company be incorporated or not, and whether its principal place of business be situate in British India or not:

"Firm." "Firm" includes a Hindu undivided family.

"Person." "Person" includes a firm:

"Defaulter." "Defaulter" includes a firm making default under this Act:

"Collector." In the case of any Company or Municipal or other public Body or Association not being a Company, "Collector" means the Collector of Land Revenue of the place or district at or in which its principal place of business in British India is situate. And in the case of any person chargeable under this Act "Collector" means the Collector of Land Revenue of the place or district at or in which such person resides.

Exemption from Act. IV. Nothing in this Act applies to the pay and allowances of officers, warrant officers, non-commissioned officers and privates of Her Majesty's Forces or of Her

Majesty's Indian Forces, who are not in Civil employment, when such pay and allowance do not exceed 500 Rupees per mensem;

or to any moveable or immoveable property solely employed for or dedicated to religious or charitable public purposes.

And no member of a firm which is for the time being chargeable under this Act shall, as such, be chargeable under this Act.

Power to exempt from Act.

V. The Governor-General of India in Council may from time to time, by order, wholly exempt from the operation of this Act the whole or any part of the income and profits of any tribe or class of persons in British India.

The Governor-General of India in Council may revoke any such order.

All orders and revocations made under this Section shall be published in the *Gazette of India.*

PART II.

Duties on Offices.

Duties on offices.

VI. A duty of six pies for every rupee shall be levied in respect of every office or employment of profit in British India under Government or under a Company or a Municipal or other public Body or Association not being a Company, and upon every salary, annuity or pension paid in British India by Government or by a Company or by a Municipal or other public Body or Association not being a Company to any person residing in British India or serving on board a ship trading to and from British Indian ports, whether on account of himself or another person.

Exemption of incomes less than Rs. 41-10-8 per mensem.

VII. No income amounting to less than forty-one rupees, ten annas, eight pie per mensem shall be chargeable under this Part.

Deduction in case of Government officials and pensioners.

VIII. In the case of every person holding any paid office, employment or commission under Her Majesty or under the Government of India, or under any local Government, or receiving any annuity or pension from Her Majesty or any such Government,

the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Examiner of Claims or other proper officer, and shall be deemed to be a tax paid under this Act.

Deduction in case of servants and pensioners of Companies and Municipalities.

IX. In the case of every person holding a paid employment under or receiving any annuity or pension from any Company, or any Municipal or other public Body or Association not being a Company, the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Treasurer or other officer whose duty it is to make such payments, and shall be deemed to be a tax payable under this Act.

Payment to Government.

Every such Treasurer or other officer shall, as soon as may be after making such deductions, pay to the credit of the Government of India, or as such Government shall from time to time direct, the amount of such deductions and shall be answerable to such Government for such payment.

Every Company, public Body or Association, Treasurer or other officer as aforesaid, is hereby indemnified for all deductions and payments made in pursuance of this Section.

Indemnity.

The Treasurer, Secretary or principal Agent or Manager of every such Company and public Body or Association shall prepare, and, on or before the 30th day of April in this year, deliver to the Collector, in such form as may be prescribed by the Governor-General of India in Council, a return in writing showing the names of every person holding at the date of the said return a paid employment under or receiving a pension or annuity from the Company or Body or Association whose pay or pension or annuity as such amounts to forty-one rupees, ten annas, eight pie per mensem or upwards, together with the salaries, annuities or pensions payable by the Company or public Body or Association to all such persons respectively.

Annual return by Treasurer, &c.

X. Whenever the full duty leviable under this Act in April, 1870, is not deducted at the time of payment in that month from the pay, annuity or pension chargeable therewith, the deficiency shall be deducted from such pay, annuity or pension at some subsequent time of payment.

Difference between duty under this Act for April 1870 and duty under Act IX. of 1869.

PART III.

COMPANIES.

XI. The Treasurer, Secretary or principal Agent or Manager in India of every Company shall, in the case of a Shipping Company trading between British India and any other country, pay to Government in respect of one moiety of the nett profits made by each of the ships of such Company engaged in such trade, during the year ending on the day on which the Company's accounts shall have been last made up, the duty of six pies in the rupee,

Shipping Companies.

and in the case of every other Company pay to Government in respect of the whole of the nett profits made in British India by such Company during the year ending on the day on which the Company's accounts shall have been last made up, the duty of six pies in the rupee,

Other Companies.

and shall prepare, and, on or before the 30th day of April in this year, deliver, to the Collector, a statement in writing signed by him showing the result of such accounts (if any).

Statement of result of accounts.

In the case of any Company where no such accounts as are mentioned in this Section have been made up within the year ending on the 31st day of March, 1870, the Treasurer, Secretary or principal Agent or Manager of such Company shall prepare, and, on or before the 30th day of April in this year, deliver, to the Collector, a return in writing signed by him and stating the nett profits made by such ships or by the Company (as the case may be) during the year ending on the said 31st day of March.

Annual return of nett profits.

Every such Treasurer, Secretary or principal Agent or Manager is hereby indemnified for all payments made in pursuance of this Section.

Indemnity.

PART IV.

DUTIES ON ALL OTHER INCOME AND PROFITS.

Duty on income not charged under Part II or Part III.

XII. A yearly duty in accordance with the first Schedule to this Act annexed shall be levied upon all income and profits accruing and arising in British India and not chargeable under Part II or Part III of this Act.

Trustees, guardians and committees of incapacitated persons to be charged.

XIII. The trustee, guardian, curator, or committee of any infant, married woman subject to the law of England, lunatic, or idiot, and having the control of the property of such infant, married woman, lunatic, or idiot, whether such infant, married woman, lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot be chargeable under this Part, be chargeable with the said duty in like manner and to the same amount as would be charged to such infant, if of full age, or to such married woman if she were sole, or to such lunatic or idiot if he were capable of acting for himself.

Non-residents charged in names of their agents.

Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income or profits chargeable under this Part, shall be chargeable in the name of such agent in the like manner and to the like amount as he would be charged if resident in British India and in actual receipt of such income or profits.

Trustees or agents of persons incapacitated or non-resident to furnish statements of income or profits with declaration.

XIV. Every such trustee, guardian, curator, committee or agent shall, when required by the Collector, deliver a statement signed by him, of the amount of the income or profits in respect whereof he is chargeable on account of such infant, married woman, lunatic, idiot or non-resident, together with a declaration of the truth of the statement.

Receivers, Managers, Courts of Wards, Administrators General and Official Trustees.

XV. Receivers or Managers appointed by any Court of India, the Courts of Wards, the Administrators General of Bengal, Madras and Bombay, and the Official Trustees, shall be chargeable under this Act in respect of all income and profits officially in their possession or under their control.

Power to return duties charged on Trustees, &c.

XVI. When any trustee, guardian, curator or committee, or agent is assessed under this Act in such capacity;

or when any receiver appointed by any Court, Court of Wards, Administrator General, or Official Trustee is assessed under this Act in respect of the income and profits officially received by him;

every person and Court so assessed may, from time to time, out of of the money coming to his or its possession as such trustee, guardian, curator, committee or agent, or as such receiver, Court of Wards, Administrator General or Official Trustee, retain so much as shall be sufficient to pay the amount of the assessment.

Indemnity.

Every such person and Court is hereby indemnified for every retention and payment made in pursuance of this Act.

Notice requiring returns.

XVII. In the case of every person chargeable under this Part whose annual income or profits is or are in the Collector's opinion 2,000 Rupees or upwards, the Collector shall,

and in the case of every other person so chargeable, the Collector may,

serve a notice on him requiring him to fill in a return of his income and profits, or of the income and profits in respect whereof he is chargeable in the form to be prescribed by the Governor-General of India in Council, and specifying the day by which the return is to be made, and the place of the Collector's office at which the return is to be made.

Every such notice shall be signed by the Collector.

The form of the return shall accompany the notice.

Return how made.

XVIII. Every person on whom such notice is served shall send to or deliver at the Collector's office the return duly filled in and signed by him.

A declaration shall be added by such person at the foot of the return that the profits or income stated therein are duly estimated on all the sources therein mentioned.

Lists of lodgers and employees.

XIX. Every person, when required so to do by a notice in the form to be prescribed by the said Governor-General in Council, shall, within the period mentioned in such notice, prepare and deliver, to the Collector, a list containing, to the best of his belief, the name of every lodger or inmate resident in his dwelling-house, and of any other persons receiving salary or emoluments amounting to forty-one rupees, ten annas, eight pie per mensem or upwards, employed in his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate who has any ordinary place of residence elsewhere at which he is liable, under this Act, to be assessed, and who desires to be so assessed at such place.

Such lists shall be signed by the persons respectively delivering the same, and shall be prepared in the form to be prescribed as aforesaid.

Collector to determine persons chargeable.

XX. The Collector shall from time to time determine what persons are chargeable under this Part, and the amount that every such person shall be assessed in accordance with the said schedule; and in making such assessment income exempted under Section 7 shall be treated as chargeable under this Part.

Computation when assessee becomes chargeable within year.

XXI. In the case of a person for the first time becoming chargeable under this Part within the year of assessment, the computation shall be made according to an average of his income and profits for such period as the Collector shall, under the circumstances, direct.

Notice to persons chargeable.

XXII. The Collector shall cause a notice to be served on every person chargeable under this Part stating.—

(1).—The name and the profession, trade, or other source of the income or profits of such person, or of the income and profits in respect of which he is chargeable;

(2).—The year or portion of the year for which the duty is to be paid;

(3).—The place or places, district or districts, where such income or profits accrues or arise;

(4).—The amount to be paid;

and requiring him within fifteen days from the date of the service to pay such amount.

Officer to grant receipts.

XXIII. Such amount shall be paid to the Collector, who shall grant a receipt for such payment to the person making the same:

Provided that, if such income or profits accrues or arise at or in more than one place or district, the receipt shall be granted and payment made by and to the Collector for the place or district at or in which the person mentioned in the notice resides, or (in the case of a firm) at or in which its principal place of business in British India is situate.

Every such receipt shall be signed by the Collector granting it, or by such other officer as he shall from time to time empower in this behalf, and such signature shall be judicially noticed.

Contents of receipt.

XXIV. Every such receipt shall specify—

(1).—The name and source or sources of the income or profits of the person by or on whose behalf the duty is paid:

(2).—The year or portion of the year for which the duty is paid:

(3).—The amount paid, and the date of payment; and

(4).—The place or places, district or districts, where the income, or profits accrues or arise; and shall be admissible as *primâ facie* proof of all matters contained therein.

Petition against assessment.

XXV. Any person objecting to the amount at which he is assessed, or denying his liability to be assessed, under this Part, may, within the period mentioned in the said notice, or if the Collector is satisfied that the objector has not received such notice, then at any time within one month from the expiration of such period, apply by petition to the Collector in order to establish his right to have the assessment reduced or cancelled:

Proviso.

Provided that no person who shall have been served with a notice under Section 17 shall be entitled to apply by petition under this Section unless he shall have made the return required in such notice on or before the day therein mentioned, or unless he shall satisfy the Collector that he had a sufficient excuse for not making such return.

Form and verification of petition.

The petition shall be in the form contained in the second schedule to this Act annexed, or as near thereto as circumstances admit, and the statements therein contained shall be verified by the petitioner er some other competent person in manner required by law for the verification of plaints.

Hearing of petition.

XXVI. The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, or on the day (if any) to which he has adjourned such hearing, shall hear such petition and pass his order thereon.

Such order may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the petitioner's assessment to an amount to be specified in the order.

If the order be in favour of the petitioner, the Collector shall at once refund the fee on the petition.

If the order simply reject the petition or reject the petition and enhance the petitioner's assessment, the petitioner shall within one week from the passing of the order pay the amount mentioned in the said notice or in the order of enhancement (as the case may be.)

Appeal to Commissioner from order on petition.

XXVII. Any person dissatisfied with any order under Section 26 may, within fifteen days from the date thereof on payment of the sum in which he was assessed or to which his assessment was enhanced, present a petition of appeal to the Commissioner of Revenue of the Division, whose decision upon such appeal shall be final.

Documents to accompany appeal.

Every petition presented under this Section shall be accompanied by a copy of the petition to the Collector, a copy of the Collector's order thereon, and all other documents (if any) connected with the case.

Copies of petition and order exempt from fees.

Neither of such copies shall be chargeable under the Court Fees' Act.

Return of fees and excess.

When the decision on such appeal is in favour of the petitioner, the value of the fees on his petition to the Collector and on his petition of appeal, together with the excess paid by him, or (when the decision is that the petitioner is not chargeable under this Act), the whole sum so paid, shall at once be refunded.

Power to summon persons to give necessary information.

XXVIII. The Collector or Commissioner may summon any person whom he thinks able to give evidence for the purpose of enabling him to determine how the petitioner should be assessed, and may examine on oath the person so summoned and the petitioner, and may require each of them to produce any documents in his possession or power relating to the sources of the petitioner's income or profits accruing or arising in British India.

Power to issue fresh notice.

XXIX. Whenever the Collector has reason to believe that, in assessing any person under this Act, any source of income or profits not specified in the receipt granted to him under Section 23 has been overlooked, which source, if it had then been known to exist, would have increased the assessment, the Collector may cause a further notice to be served on such person, stating the amount to be paid in respect of such source; and the provisions contained in Sections 22 to 28 (both inclusive) shall apply to such notice and regulate the procedure thereunder.

PART V.

PENALTIES.

Treasurers, &c., failing to make payments or deliver returns.

XXX. Every Treasurer, Secretary or principal Agent or Manager failing to make any payment or to prepare and deliver any return required by Section 9,

or failing to make any payment or to prepare and deliver any statement or return required by Section 11,

Trustees, &c., failing to deliver statements or declarations.

and every trustee, guardian, curator, committee or agent failing to deliver any statement or declaration required by Section 14,

shall, for every day during which such default continues, be fined, on conviction before a Magistrate, ten rupees.

The Commissioner of the Division shall have power to remit wholly or in part any penalty imposed under this Section.

Failure to pay amount of assessment.

XXXI. If any person served with notice under Section 22 does not within the period specified in the said notice pay the amount required thereby, he shall, on conviction before a Magistrate, be fined twice the amount mentioned in such notice: Provided that he has not presented a petition under Section 25.

If any such person presents a petition under Section 25 and does not, within one week from the passing of the order thereon, pay the amount (if any) required by such order, he shall, on conviction before a Magistrate, be fined twice the amount mentioned in such order.

Grant of receipt on recovery of fine.

On the recovery of the fine from the person so convicted, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bear date from the recovery of the fine, and save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this Section.

False statement in declaration, list or petition.

XXXII. Whoever makes a statement in any declaration or list made or delivered under Sections 18 or 19, which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have committed the offence described in Section 177 of the Indian Penal Code.

Whoever makes a statement in any petition presented under Section 25 which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Prosecution to be at instance of Collector.

XXXIII. No person shall be proceeded against for any offence under Section 30, 31 or 32, except at the instance of the Collector.

Mode of recovering fines.

XXXIV. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras or Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

In the case of a firm, the Magistrate imposing the fine may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the firm or to all or any of the members thereof.

Section 193 and 228 of Penal Code to apply to proceedings.

XXXV. In Sections 193 and 228 of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

PART VI.

PAYMENT.

Tax when payable.

XXXVI. All taxes under this Act, except when they are deducted under Section 8 or 9, shall be payable on the 5th day of April, 1870.

Instalments.

Payment by instalments.

Provided that the amount so payable may be paid by four equal instalments; the first instalment to be paid on some day not later than fifteen days after service of the notice mentioned in Section 22 upon the person paying the same, and the second instalment on the 1st day of July, the third instalment on the 1st day of October, and the fourth instalment on the 1st day of January, 1871.

Death or insolvency of person paying instalments.

XXXVII. When any person pays only such first instalment, or first and second instalments, or first, second and third instalments, and in any of the quarters respectively ending on the 30th day of June, the 30th day of September or the 31st day of December, dies, or is by sickness or other infirmity rendered incapable of exercising the profession or trade (if any) in respect of the profit arising from which he was assessed, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of his property in trust for the benefit of his creditors, the amount of the subsequent instalments or instalment shall not be claimable.

Firm paying instalment and dissolving partnership or becoming insolvent.

When any firm pays only such first instalment, or first and second instalments, or first, second and third instalments, and in any of the quarters respectively ending on the days last aforesaid dissolves partnership, or takes the benefit of any Act for the relief of insolvent debtors, or conveys the whole of its property in trust for the benefit of its creditors, the amount of the subsequent instalments or instalment shall not be claimable.

Recovery of subsequent instalment.

XXXVIII. If the Collector has caused a notice to be served on any person liable to pay the said second or any subsequent instalment and requiring him within seven days from the date of the service to pay the amount of such instalment (mentioning it), and if the person so served does not within that period pay such amount as required by the said notice, he shall, on conviction before a Magistrate, be fined twice the amount so mentioned.

Recovery under Revenue-law.

Optional recovery under revenue-law.

XXXIX. In any case of default under this Act arising outside the local limits of the towns of Calcutta, Madras or Bombay, the Collector may, if he thinks fit, and if the notice mentioned in Section 22, 29 or 38 (as the case may be) has been served on the defaulter, recover the amount of any tax or instalment payable under this Act as if it were an arrear of land-revenue.

On the recovery of such amount from the defaulter, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bear date from the recovery of the amount, and, save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this Section.

Payment of Taxes and Fines.

Payment of taxes levied and fines recovered under this Act.

XL. All taxes levied and all fines recovered under this Act shall be paid to the credit of the Government of India, or as such Government shall from time to time direct.

PART VII.

MISCELLANEOUS.

Exercise of powers of Collector and Commissioner.

XLI. All or any of the powers and duties conferred and imposed by this Act on a Collector and on a Commissioner of Revenue may be exercised and performed by such other officers or persons as the local Government shall from time to time appoint in this behalf.

Service of notices.

XLII. Service of any notice under this Act shall be made by delivering or tendering a copy thereof under the signature of the Collector.

Whenever it may be practicable, the service of the notice shall be on the person therein named, or, in the case of a firm, on some member thereof.

When such person or member cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer door of the house in which the person or firm therein named ordinarily dwells or carries on business.

Power to declare principal place of business.

XLIII. When any Company or firm has several places of business in the territories subject to different local Governments, the Governor-General of India in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be the principal place of business, and, when any Company has several Agents or Managers, which of them shall, for the purposes of this Act, be deemed to be the principal Agent or Manager.

When any Company or firm has several places of business in the territories subject to a single local Government, such Government shall have power to declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

Power to declare residence.

When any person has several places of residence in the territories subject to different local Governments, the Governor-General of India in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence, and when any person has several places of residence in the territories subject to a single local Government, such Government shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his.

The powers given by this Section may be delegated to and exercised by such officers as the Governor-General of India in Council or the local Government, as the case may be, shall from time to time appoint in this behalf.

Governor-General in Council empowered to prescribe forms.

XLIV. The Governor-General of India in Council may from time to time prescribe forms for the returns, notices and limits hereinbefore mentioned.

All such forms shall be published in the *Gazette of India.*

Governor-General in Council empowered to make rules.

XLV. The Governor-General of India in Council may from time to time make rules consistent with this Act for the guidance of officers in matters connected with its enforcement, and may delegate to any local Government the powers given by this Section so far as regards the territories subject to such Government.

SCHEDULE I.

Duties.

Persons whose annual income or profits shall be assessed at not less than	Rs. 500	but at less than	Rs. 750	shall pay	Rs. 19	8	0
Ditto	„ 750	„ „	„ 1,000	„ „	27	0	0
Ditto	„ 1,000	„ „	„ 1,500	„ „	39	0	0
Ditto	„ 1,500	„ „	„ 2,000	„ „	54	0	0
Ditto	„ 2,000	.	...	. six pies in the rupee.			

SCHEDULE II.

Form of Petition under Section 25.

Stamp eight annas.

TO THE COLLECTOR OF———

The———*day of*———·187

The petition of *A. B.* of———

SHEWETH—

1*st.*—That under the Indian Income Tax Act your petitioner has been assessed in the sum of twenty-seven Rupees for the year commencing the 1st day of April, 187

2*nd.*—That your petitioner's income and profits accruing and arising from [*here specify petitioner's trade or other source or sources of income or profits and the place or places at which such income or profits accrues or arise*] for the year ending the 31st day of March last were———rupees———as will appear from the documents marked———presented herewith; and to which your petitioner claves leave to refer.

3*rd.*—That your petitioner has no other source of income or profits, and has no reason to believe that his income and profits during the year commencing the 1st day of April, 187— will exceed the said sum of———rupees.

Your petitioner therefore prays that he may be assessed accordingly, and that the value of the fee on this petition may be refunded [*or* that he may be declared not to be chargeable under the said Act, and that the value of the fee on this petition may be refunded].

(Signed) *A. B.*

Form of Verification.

I, *A. B*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) *A. B.*

SCHEDULE III.

Enactments repealed.

Number and Year.	Title of Act.	Extent of repeal.
Act IX. of 1869.	The Indian Income Tax Act.	The whole.
Act XXIII. of 1869.	An Act to enhance the duties leviable under the Indian Income Tax Act.	The whole.
Act VII. of 1870.	The Court Fees' Act.	In Section 32, the words "and the Indian Income Tax Act, Section 20, shall be read as if, for the words 'the value of the said stamp,' the words 'the fee on the petition' were substituted." In the second Schedule, No. 9, the words "Section 21."

ACT No. XVII. OF 1870.

An Act to amend the law relating to Customs Duties.

Preamble.

Whereas it is expedient to amend the law relating to the duties of Customs on goods imported and exported by sea; It is hereby enacted as follows:

Short Title.

I. This Act may be called "The Indian Customs Duties' Act, 1870."

Repeal of Acts.

II. Act XVII. of 1867 *(to amend the law relating to Customs Duties)* and Act XII. of 1869 *(to amend the law relating to Customs Duties)* are hereby repealed.

Duties specified in Schedules to be levied.

III. There shall be levied and collected in every port in British India, the duties specified in the two Schedules annexed to this Act; and all articles, other than those specified in the said Schedules respectively, shall be duty-free:

Provided that nothing herein contained shall be taken to affect Act XX. of 1867 *(to authorize the trans-shipment, without payment of duty, of goods imported into Calcutta, Madras and Bombay by steamers)*, or Act II. of 1868 *(to alter the rate of duty leviable on pepper exported from Cochin)*, or to alter the existing duties upon Salt and Opium.

Construction of Section 27 of Consolidated Customs Act.

IV. Section 27 of the Consolidated Customs Act shall be construed as if, for the words "for which a specific value has not been fixed by the local Government with the sanction of the Governor-General of India in Council," the following words were substituted; (that is to say), "for which a specific value is not fixed by the Indian Customs Duties' Act, 1870;" but, save as aforesaid, nothing herein contained shall be construed to affect the provisions of the Consolidated Customs Act.

Power to fix value of dutiable goods.

V. The Governor-General of India in Council may from time to time, by notification in the *Gazette of India*, fix for the purposes of this Act the value of any goods exported or imported by sea on which duties of customs are hereby imposed.

SCHEDULE A.

IMPORT TARIFF.

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. A.	
1	Apparel, including Haberdashery, Millinery, &c. ...	*Ad valorem* ...	Seven and a half per cent.
2	Arms, Ammunition and Military Stores—		Seven and a half per cent., except as regards Military and other Regulation Uniforms and Accoutrements when imported for private use by persons in the Public Service, which are free.
	Gunpowder, common ...	0 5 per lb.	
	„ sporting ...	1 0 „	
	Fire-arms and parts of ditto ...	*Ad valorem.*	
	All other sorts, including Military Accoutrements, Uniforms, &c. ...	*Ad valorem.*	
3	Beads and False Pearls—		
	Beads—China ...	30 0 per cwt.	
	„ Common ...	28 0 „	
	„ Ruby of all sizes ...	0 12 per lb.	
	„ Seed ...	0 10 „	
	„ Small Scarlet and Red	0 10 „	
	„ Coral (false) Moorzun ..	0 8 per corge of 2,000 beads.	
	All other sorts of false Corals and Beads ...	*Ad valorem.*	
	Pearls, false, Bajeria ...	5 0 per lakh.	
	„ Boria ..	1 0 per thousand.	
	„ Jouria ...	8 0 per lakh.	
	„ Nathia ...	0 6 per thousand.	
	„ Tachea ...	0 12 „	
	„ Wattanah ..	10 0 per lakh.	
	„ All other sorts ..	*Ad valorem.*	
4	Cabinet-ware ...	*Ad valorem.*	Seven and a half per cent.
5	Candles, Wax, Composition and other kinds—		
	Candles, Wax .	1 0 per lb.	
	„ Paraffine ..	0 8 „	
	„ Spermaceti	0 8 „	
	„ Composition and other sorts ...	0 5 „	
6	Carriages ...	*Ad valorem.*	
7	Clocks, Watches, and other Time-keepers ...	*Ad valorem.*	
8	Coffee—		
	Persian Gulf and Red Sea ...	30 0 per cwt.	
	Other places ...	20 0 „	

SCHEDULE A.

IMPORT TARIFF—(*Continued*).

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. A.	
9	Corals, real ...	*Ad valorem.*	Seven and a half per cent.
10	Corks ...	1 8 per gross.	
11	Cotton—		
	Thread—		
	Sewing Thread, White and Colored ...	0 11 per lb.	
	" In reels, or on cards of one hundred yards (and *pro rata* above and below) * ...	2 4 per gross reel.	
	" Goa and Country	30 0 per cwt.	
	Twist—		Three and a half per cent.
	Mule, under No. 15 ...	0 6 per lb.	
	No. 16 to 24 ..	0 9 "	
	25 to 32 ...	0 10 "	
	33 to 42 ...	0 11 "	
	43 to 52 ...	0 12 "	
	53 to 60 ...	0 14 "	
	No. 70 ...	0 15 "	
	80 ..	1 0 "	
	90 ...	1 1 "	
	100 ..	1 2 "	
	110 ..	1 3 "	
	120 .	1 4 "	
	and one anna additional for every count of ten above No. 120.		
	Water, No. 20 ...	0 10 "	
	30 ...	0 11 "	
	40 ...	0 13 "	
	50 ..	0 15 "	
	Above 50 ...	1 2 "	
	Turkey Red Twist, all kinds† ...	1 6 per lb.	Three and a half per cent. † Duty to be charged on the Grey weight of the Coloured Yarn; when not ascertainable, the actual Wharf weight or Invoice weight to be taken.
	Twist, Orange, Red and other Colours †	0 15 "	
	Piece Goods—		
	Grey—		Five per cent.
	Mulls ...	1 1 per lb.	
	Jaconets exceeding 10×10 to the quarter inch ...	0 13 "	
	Other Jaconets	0 11 "	

* Exceeding this length to be charged in proportion.

SCHEDULE A.

IMPORT TARIFF—(*Continued.*)

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. A.	
	Cotton—*continued.*		
	Piece Goods—*continued.*		
	Grey—*continued.*		
	Shirtings, Madapollams and Prints ...	0 11 per lb.	Five per cent.
	Long Cloths, Jeans, Domestics, Sheetings, Drills and T. Cloth ...	0 9 „	
	Other sorts ...	*Ad valorem.*	
	Cotton Rope ...	25 0 per cwt.	Seven and a half per cent.
	Cotton Goods, other kinds ...	*Ad valorem.*	
12	Drugs and Medicines—		
	Acid, Sulphuric ...	0 3 per lb.	
	Alkali, Country (Sajee Khar) ...	2 0 per cwt.	
	Aloes, black ...	10 0 „	
	„ Socotra ...	25 0 „	
	Alum ...	3 8 „	
	Arsenic ...	25 0 „	
	„ China, Munseel ...	8 0 „	
	Assafœtida (Hing) ...	55 0 „	
	„ Coarse (Hingra) ...	10 0 „	
	Brimstone, Flour ...	7 0 „	
	„ Roll ...	6 0 „	
	„ Rough ...	4 8 „	
	Camphor, Bhimsing (Barras) ..	50 0 per lb.	
	„ Refined cake ...	65 0 per cwt.	
	„ Crude in powder ...	50 0 „	
	Cassia Lignea ...	38 0 „	
	Coova, red ...	*Ad valorem.*	
	Copperas, green ...	2 8 per cwt.	
	Quinine ...	*Ad valorem.*	
	Sal Ammoniac ...	22 0 per cwt.	
	Salep ...	60 0 „	
	Senna Leaves ...	6 0 „	
	All other sorts ...	*Ad valorem.*	
13	Dyeing and Colouring Materials—		
	Cochineal ...	1 12 per lb.	
	Gallnuts, Country, Myrabolam..	3 0 per cwt.	
	„ Persian ...	35 0 „	
	Gamboge Wood ...	20 0 „	
	Madder or Munjeet ...	10 0 „	
	Orchilla Weed ...	8 0 „	
	Saffron, Europe ...	16 0 per lb.	
	„ Meadow, Soorunjun ...	10 0 per cwt.	
	„ Persian ...	12 0 per lb.	
	„ In cakes or lumps ...	5 0 „	
	Sapan Wood and Root ...	3 8 per cwt.	
	Aniline Dyes ...	0 8 per oz.	
	All other sorts ...	*Ad valorem.*	

SCHEDULE A.

IMPORT TARIFF—(*Continued*).

No.	Description of Article.	Value on which Duty is Assessed.	Rate on Duty.
		Rs. A.	
14	Fireworks—		
	China ...	30 0 per box of 133⅓ lbs.	Seven and a half per cent.
	Other sorts ...	*Ad valorem.*	
15	Flax, Manufactures of—		
	Piece Goods ...	*Ad valorem.*	Five per cent.
	Other sorts, including linen thread	*Ad valorem.*	Seven and a half per cent.
16	Fruits and Vegetables—		
	Almonds, without shell ...	25 0 per cwt.	
	„ with shell ...	10 0 „	
	Cajoo kernels ...	10 0 „	
	Cocoanuts ...	30 0 per thousand.	
	„ kernel (Copra) ...	9 8 per cwt.	
	Currants, Europe ...	35 0 „	
	„ Persian ...	12 0 „	
	Dates, dry, in bags ...	4 0 „	
	„ wet, in bags ...	3 0 „	
	„ „ in pots ...	6 0 „	
	Figs, Europe ...	42 0 „	
	„ Persian, dried ...	6 0 „	
	Garlic ...	4 0 „	
	Pistachio Nuts ...	14 0 „	
	Prunes, Bussorah .	12 0 „	
	Raisins, Black, Persian Gulf, Red Sea, and Khismis	12 0 „	
	„ Monocka, Persian Gulf and Red Sea ...	7 0 „	
	„ Malaga and Bloom ...	0 10 per lb.	
	„ Other sorts ...	*Ad valorem.*	
	Walnuts, Akroot ..	5 0 per cwt.	
	Mangoes, dried ...	*Ad valorem.*	
	Prunes, Europe ...	*Ad valorem.*	
	Other sorts, except Bidmiskh and Buzarbuttoo Nuts, which are free ...	*Ad valorem.*	
17	Glass and Glass-Ware—		
	Bangles, Glass, China, Gilt ...	10 0 per 100 pairs.	
	„ „ not Gilt ...	5 0 „	
	Glass, Broken	5 0 per cwt.	
	„ China, of all colours ...	32 0 per 133⅓ lbs.	
	„ Crown, coloured ...	32 0 per 100 supl. ft.	
	„ „ of sizes ...	5 0 per 100 supl. ft.	
	Glass and Glass-ware of all other sorts, except Bottles, which are free	*Ad valorem.*	

SCHEDULE A.

IMPORT TARIFF—(*Continued*).

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. A.	
18	Gums—		Seven and a half per cent.
	Gum, Ammoniac ...	10 0 per cwt.	
	„ Arabic ..	16 0 „	
	„ Bdellium, common Gum	5 0 „	
	„ Benjamin ...	33 0 „	
	„ Bysabole, coarse Myrrh .	12 0 „	
	„ Copal ...	65 0 „	
	„ Frankincense or Olebanum	9 0 „	
	„ Gambier (or Kino) ...	8 0 „	
	„ Myrrh ...	24 0 „	
	„ Persian (false) ...	3 0 „	
	„ Rosin ...	12 0 „	
	All other sorts ...	*Ad valorem.*	
19	Groceries not otherwise described ...	*Ad valorem.*	
20	Hides and Skins—		
	Border Hides, prepared ...	30 0 each.	
	Buffalo Hides, Country, Tanned	80 0 per score.	
	Calf Skins ..	40 0 per dozen.	
	Chamois Skins ..	6 0 „	
	Cow Hides, Country, Tanned ...	60 0 per score.	
	Rhinoceros Leather ..	40 0 per cwt.	
	Other sorts ...	*Ad valorem.*	
21	Instruments, Musical ...	*Ad valorem.*	
22	Ivory and Ivory-ware—		
	Elephants' Grinders ...	16 0 per cwt.	
	Tusks above twenty lbs. ...	300 0 „	
	Tusks ten lbs. and not exceeding twenty lbs. ...	225 0 „	
	Tusks under ten lbs. ...	125 0 „	
	Sea Cow or Moye Teeth, three lbs. and upwards ...	225 0 „	
	Sea Cow or Moye Teeth, under three lbs. ...	75 0 „	
	Ivory, Manufactures of ...	*Ad valorem.*	
23	Jewellery, including Plate—		
	Silver-ware, plain ...	1 6 per tolah.	
	„ embossed ...	2 0 „	
	Jewellery and Plate of all other kinds, excepting Precious Stones and Pearls, which are free ...	*Ad valorem.*	
24	Leather and Manufactures of—		
	Leather ...	*Ad valorem.*	
	Boots and Shoes ...		
	Harness and Saddlery		
	Other sorts ...		

SCHEDULE A.

IMPORT TARIFF—(*Continued*).

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
25	Liquor—	Rs. A.	
	Ale, Beer and Porter Cider and other fermented Liquors ...	.. ...	One anna per Imperial Gallon.
	Spirits	.....	Three Rupees the Imperial Gallon, and the duty to be rateably increased as the strength exceeds London Proof. Provided that ten per cent. *ad valorem* shall be charged on all spirits used exclusively in Arts and Manufactures, or in Chemistry, subject to such Rules as the local Governments shall from time to time prescribe, for ascertaining that such spirits are unfit for use as a beverage and incapable of being converted to that purpose. And the officer in charge of the Custom House, subject to the general instructions of the local Government, shall decide what spirits fall within the proviso, and his decision thereon shall be final in law.
	Wines—		
	Champagnes, Sparkling Wines and Liqueurs ...	.....	1-8 per Impl. Gal. or 6 Qt. Bottles.
	All other sorts ...	.....	1-0 per ditto.
26	Matches—		
	Lucifer and all other sorts ...	*Ad valorem.*	Seven and a half per cent.
27	Mats, Floor Matting, China of all sorts ...	50 0 per hundred.	
28	Metals, Unwrought, Wrought, and Manufactures of—		
	Brass Beads, Googree, China ...	0 12 per thousand.	
	„ Old ...	35 0 per cwt.	
	„ Sheets, rolls very thin ...	80 0 „	
	Copper, Australian Cake ...	41 0 „	
	„ Bolt ...	43 0 „	
	„ Brazier's ...	43 0 „	
	„ China Cash ...	28 0 „	
	„ Japan ...	41 0 „	
	„ Nails and Composition Nails ...	43 0 „	
	„ Old ...	40 0 „	
	„ Pigs and Slabs, Foreign	38 0 „	
	„ Sheet, Sheathing and Plate ...	43 0 „	
	„ Tiles, Ingots, Cakes and Bricks ...	40 0 „	
	„ China, White Copperware ...	1 4 per ℔.	

SCHEDULE A.

IMPORT TARIFF—(*Continued*).

Description of Article.	Value on which Duty is assessed.	Rate of Duty.
	Rs. A.	
METALS, &c.—*continued.*		
Copper, Foil Dauk-pana, China.	3 0 per book of 100 leaves.	Seven and a half per cent.
" " " Europe	4 0 "	
All other kinds ...	*Ad valorem.*	
Iron, Angel and T Iron ..	*Ad valorem.*	One per cent.
" Beams, Pillars, Girders and Bridge-work	*Ad valorem.*	
" Flat, Square and Bolt, including Scotch ..	80 0 per ton.	
" Hoop, Plate and Sheet .	100 0 "	
" Nails, Rivets and Washers	10 0 per cwt.	
" Nail Rod ...	90 0 per ton.	
" Old ...	2 8 per cwt.	
" Pig .	40 0 per ton.	
" Rod, Round, British, under half inch diameter ...	105 0 "	
" Rod, Round, British, exceeding half inch diameter ..	80 0 "	
" Swedish, Flat and Square	120 0 "	
" Rice Bowls ..	3 0 per set of ten.	
" " " ...	1 8 per set of six.	
" Galvanised ...	*Ad valorem.*	
" Other sorts, except Anchors, Cables and Kentledge, which are free ...	*Ad valorem.*	Seven and a half per cent.
Lametta, Double reels ...	4 8 per score.	
" Single " ..	2 4 "	
Lead, Pig ...	10 0 per cwt.	
" Pipes ..	13 8 "	
" " tinned	16 0 "	
" Sheets (other than thin Sheets for Tea Canisters, which are free) .	12 0 "	
Ore Galena ...	13 0 "	
Gold leaf, Europe ...	4 0 per 100 leaves.	
Mock Gold leaf	5 0 per 20 books.	
Orsidue or Brass Leaves, foreign	1 4 per lb.	
" Europe		
" China .	0 12 "	
Patent or Yellow Metals, Sheathing and Sheets and Bolts .	35 0 per cwt.	
" ditto old ...	30 0 "	
Quicksilver ...	1 0 per lb.	
Shot, Bird ..	15 0 per cwt.	
Spelter Nails ...	17 8 "	
" Plate and other shapes ...	11 0 "	
" Sheet or Zinc Sheathing ...	15 0 "	
Steel, blistered ...	9 0 "	
" British ...	9 0 "	
Steel, Cast ...	25 0 per cwt.	
" Spring ...	10 0 "	
" Swedish ...	10 0 "	
Tin, Block ...	45 0 "	
" Plates ...	12 8 "	
Wire, Brass ..	0 8 per lb.	
" Common Iron, Nos. 1 to 40	9 8 per cwt.	
" Copper ...	0 10 per lb.	

SCHEDULE A.

IMPORT TARIFF—(*Continued*).

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. A.	
	Metals, &c.—*continued.*		Seven and a half per cent.
	Other sorts, including Hardware, Ironmongery, and Cutlery, but excluding Machinery, the component parts thereof, and Agricultural Implements, which are free ...	*Ad valorem.*	
29	Naval Stores—		
	Cables, Coir, Tarred ...	10 0 per cwt.	
	Canvas, Country, Cotton ...	50 0 „	Five per cent.
	„ Europe, Sail, not exceeding forty yards ...	15 0 per bolt.	
	Coir, Rope, Maldive & Laccadive	10 0 per cwt.	
	„ Yarn, of all kinds ...	9 0 „	
	Cordage, Hemp, Europe ...	18 0 „	
	„ Manilla ...	20 0 „	
	Dammer „ ...	5 0 „	
	Pitch, American and Europe ...	13 0 per barrel not exceeding three cwt. and *pro rata* above and below.	
	„ Coal ...	4 8	
	Tar, American ...	13 0 Ditto ditto.	
	„ Coal ..	6 8	
	„ Swedish and Archangel ..	14 0	
	Twine, Europe, Sail ...	0 8 per lb.	
	All other sorts, except Oakum, which is free ...	*Ad valorem.*	
30	Oils—		Seven and a half per cent.
	Cardamom ..	10 0 per lb.	
	Cassia ...	4 0 „	
	Cinnamon, Ceylon ...	10 0 „	
	Cocoanut ...	20 0 per cwt.	
	Earth ...	10 0 „	
	Grass ...	2 0 per lb.	
	Jingelee or Teel ...	20 0 per cwt.	
	Kerosine, Paarffine, Petroleum, Rock and Shale Oils of all descriptions ...	1 12 per Impl. gal.	
	Linseed, Country ...	18 0 per cwt.	
	„ Europe ...	1 4 per Impl. gal.	
	Naphtha ...	30 0 per cwt.	
	Otto, of sorts ...	20 0 per ounce.	
	Sandalwood ...	8 0 per lb.	
	Sorrel ...	20 0 per cwt.	
	Turpentine ..	2 0 per Impl. gal.	
	Whale and Fish ...	15 0 per cwt.	
	Wood ...	15 0 „	
	All other sorts, except Cocum and Slush Fat, which are free	*Ad valorem.*	
31	Oil and Floor Cloth	*Ad valorem.*	Five per cent.

SCHEDULE A.

IMPORT TARIFF—(*Continued*).

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. A.	
32	Paints, Colours, and Painter's Materials—		Seven and a half per cent.
	Ochre, all Colours ...	3 0 per cwt.	
	Paints of sorts ..	12 0 "	
	Composition Paint and Patent Driers ...	30 0 "	
	Prussian Blue, China ...	0 8 per ℔.	
	" " Europe ..	1 8 "	
	Red Lead .	14 0 per cwt.	
	Turpentine ...	2 0 per Impl. gal.	
	Verdigris ..	75 0 per cwt.	
	Vermillion, Canton .	80 0 per box of 90 bundles.	
	" Macao ...	30 0 per box of 90 bundles.	
	White Lead .	12 0 per cwt.	
	All other sorts, including Brushes	*Ad valorem.*	
33	Perfumery—		
	Atary, Persian ...	15 0 per cwt.	
	Rose flowers, dried ...	10 0 "	
	Rose Water ...	1 12 per Impl. gal.	
	All other sorts ...	*Ad valorem.*	
34	Photographic Apparatus and Materials ..	*Ad valorem.*	
35	Piece Goods, not otherwise described ...	*Ad valorem.*	Five per cent.
36	Porcelain and Earthen-ware ..	*Ad valorem.*	Seven and a half per cent.
37	Provisions and Oilman's Stores—		
	Bacon in Canisters, Jowls and Cheeks ...	0 9 per ℔.	
	Beef ...	60 0 per tierce of three cwt. 40 0 per brl. of two cwt.	
	Cheese ...	0 10 per ℔.	
	Fish Maws ..	50 0 per cwt.	
	Fish Sozille and Singally, small	6 0 per cwt.	
	Flour .	25 0 per barrel or sack of 200 ℔s.	
	Ghee ...	36 0 per cwt.	
	Hams ...	0 8 per ℔.	
	Pork ...	50 0 per tierce of three cwt., and 34 0 per barrel of two cwt.	
	Shark fins ...	20 0 per cwt.	
	Tongues, salted ...	10 0 per keg of six.	
	Vinegar in wood, Europe ...	1 8 per Impl. gal.	
	" " Persian ...	0 12 "	
	" " Country	0 6 "	
	All other sorts, except Biche de mer, Butter and salted Fish, which are free ...	*Ad valorem.*	

SCHEDULE A.

IMPORT TARIFF—(*Continued*).

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. A.	
38	Railway Materials—		
	Of Iron ...	*Ad valorem.*	One per cent.
	Steel rails ...	*Ad valorem.*	
	Other sorts ...	*Ad valorem.*	Seven and a half per cent.
39	Rattans and Canes—		
	Canes, Malacca ...	1 0 per dozen.	
	Rattans ...	7 0 per cwt.	
	All other sorts ...	*Ad valorem.*	
40	Seeds—		
	Anchuchuck ...	10 0 per cwt.	
	Anise, Europe ...	28 0 ,,	
	Assalia ...	7 0 ,,	
	Cajoo ...	3 0 ,,	
	Castor ...	4 8 ,,	
	Cummin ...	12 0 ,,	
	,, Black ...	5 0 ,,	
	Esubgool ..	5 0 ,,	
	Linseed ...	5 0 ,,	
	Methee ...	5 0 ,,	
	Mustard ...	4 8 ,,	
	Quince Seed or Badana ...	50 0 ,,	
	Rape or Sursee ...	4 8 ,,	
	Sawjeerah ...	25 0 ,,	
	Tookmeria ...	7 0 ,,	
	All other sorts, excepting Seeds imported by any Public Society for gratuitous distribution, which are free ...	*Ad valorem.*	
41	Shells—		
	Chanks, "large shells," for Cameos ...	10 0 per hundred.	Seven and a half per cent.
	,, White, live ...	6 0 ,,	
	,, ,, dead ...	3 0 ,,	
	Cowdas, Mozambique and Zanzibar ...	3 0 ,,	
	,, from other places ...	0 8 ,,	
	Cowries—		
	Bazar, common ...	4 0 per cwt.	
	Maldive ...	16 0 ,,	
	Sunkley ...	40 0 ,,	
	Yellow, superior quality ...	8 0 ,,	
	Mother-o'pearl ...	8 0 ,,	
	Tortoise Shell ...	6 0 per ℔.	
	,, Nuck ...	1 0 ,,	
	Nuckla and other sorts ...	*Ad valorem.*	
42	Silk—		
	Floss ...	8 0 per ℔.	
	Raw, Charon and Cochin-China	4 0 ,,	
	,, Mathow ...	1 12 ,,	

SCHEDULE A.

IMPORT TARIFF—(*Continued*).

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. A.	
	Silk—*continued.*		
	Raw other kinds of China ...	7 0 per ℔.	Seven and a half per cent.
	„ Persian ...	5 0 „	
	„ Punjum and Cutchra ...	1 12 „	
	„ Siam ...	4 0 „	
	Sewing Thread, China ...	8 0 „	
	Other sorts ...	*Ad valorem.*	
	Silk Piece Goods of sorts ...	*Ad valorem.*	Five per cent.
43	Soap ...	*Ad valorem.*	Seven and a half per cent.
44	Spices—		
	Aloe Wood ...	3 0 per ℔.	
	Aniseed Star ...	40 0 per cwt.	
	Betelnut, white, Sheverdhun ..	18 0 „	
	„ all other kinds ...	7 0 „	
	„ in husk ...	2 0 per thousand.	
	Cassia Buds, Nagkessur, China	0 8 per ℔.	
	Chillies, dried ...	8 0 per cwt.	
	Cloves ...	12 0 „	
	„ in seeds, Nurlavung ..	8 0 „	
	Mace ...	0 9 per ℔.	
	„ false ...	10 0 per cwt.	
	Nutmegs ...	0 10 per ℔.	
	„ in shell ..	0 6 „	
	„ wild ...	12 0 per cwt.	
	Pepper, Black and Long ...	14 0 „	
	„ White ...	25 0 „	
	All other kinds ...	*Ad valorem.*	
45	Stationery other than Paper...	*Ad valorem.*	
46	Sugar and Sugar-Candy—		
	Sugar-Candy, China ...	20 0 per cwt.	
	„ Loaf ..	23 0 „	
	„ Soft ...	12 0 „	
	All other sorts of Saccharine produce ...	*Ad valorem.*	
47	Tea ...	1 0 per ℔.	
48	Timber and Woods—		
	Manufactures of, including also Pipes, Staves and Casks ..	*Ad valorem.*	
49	Tobacco—		
	Manufactured ...	*Ad valorem.*	Ten per cent.
	Unmanufactured ...	*Ad valorem.*	
	Articles, such as pipes, &c., used in consumption of ...	*Ad valorem.*	Seven and a half per cent.

SCHEDULE A.

IMPORT TARIFF—(*Continued*).

No	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. A	
50	Toys and Requisites for all Games	*Ad valorem.*	Seven and a half per cent.
51	Umbrellas—		
	Cotton, Steel Ribs	0 13 each.	
	" Cane Ribs	0 11 "	
	" China Paper Kettisals	45 0 per box of 110	
	All other sorts	*Ad valorem.*	
52	Woollen Goods—		
	Piece Goods ..	*Ad valorem.*	Five per cent.
	Braid Other sorts	*Ad valorem.*	Seven and a half per cent.

SCHEDULE B.

EXPORT TARIFF.

No.	Description on Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. A.	
1	Indigo	.....	Three rupees per maund.
2	Grain of all sorts ...	... ..	Three annas per maund.
3	Lac—		
	Button ...	28 0 per cwt.	Four per cent.
	Dye .	45 0 "	
	Seed ...	20 0 "	
	Shell ...	28 0 "	
	Stick .	16 0 "	
	Other sorts .	*Ad valorem.*	
4	Oils—		
	Castor ..	16 0 per cwt.	Three per cent.
	Cocoanut ...	20 0 "	
	Fish .	15 0 "	
	Grass ..	2 0 per lb.	
	Jingeely or Teel .	20 0 per cwt.	
	Linseed ..	18 0 "	
	Mhowa ...	12 0 "	
	Mustard ...	16 0 "	
	Poppy ...	20 0 "	
	Rape or Sursee ...	16 0 "	
	Sandalwood ...	8 0 per lb.	
	Other sorts ...	*Ad valorem.*	
5	Seeds—		
	Castor Seed (Erundee) ...	4 8 per cwt.	
	Coriander Seed ...	4 0 "	
	Cummin Seed ...	12 0 "	
	" Black (Caleejeera) ...	5 0 "	
	Gound Nuts, with shell ..	5 0 "	
	without shell ..	6 0 "	
	Jingeely or Teel Seed ..	6 0 "	
	Linseed ...	5 0 "	
	Methee Seed ...	5 0 "	
	Mustard Seed ...	4 8 "	
	Poppy Seed ..	5 8 "	
	Rape or Sursee Seed ...	4 8 "	
	Other sorts ...	*Ad valorem.*	
6	Cotton Goods—		
	Piece Goods—		
	Baftahs ...	30 0 per score.	
	Gurrah ...	20 0 "	
	Khurwah ...	25 0 "	
	Mamoodie ...	32 0 "	
	Mirzapore Chintz ...	15 0 "	

SCHEDULE B.

EXPORT TARIFF—(*Concluded*).

No.	Description of Article.	Value on which Duty is assessed.	Rate of Duty.
		Rs. A.	
	Cotton Goods—*continued.*		
	Piece Goods—*continued.*		
	Patna ...	30 0 per score.	Three per cent.
	Shans ..	40 0 "	
	Tunjeeb, Oudh ...	26 0 "	
	Other sorts ...	*Ad valorem.*	
	Twist, Country, No. 10 ...	0 7 per lb.	
	" " No. 20 ...	0 9 "	
	" " No. 30 ...	0 10 "	
	" Hand Spun .	0 5 "	
	All other kinds of Cotton Goods	*Ad valorem.*	
7	Hides and Skins, Tanned—		
	Hides—		
	Buffaloe, Country, tanned ...	70 0 per score.	
	Cow " ...	50 0 "	
	Skins		
	Goat and Sheep ...	10 0 "	
	Lamb ...	5 0 "	
	Any other sorts of Hides and Skins ...	*Ad valorem.*	
8	Spices—		
	Aloe Wood ...	3 0 per lb.	
	Betelnut in husk ...	2 0 per 1,000.	
	Cardamoms ...	200 0 per cwt.	
	" large bastard ...	40 0 "	
	Chillies, dried ...	8 0 "	
	Ginger, dry (rough) Malabar ...	10 0 "	
	" " " Bengal ...	7 0 "	
	" (scraped) ...	15 0 "	
	Pepper ...	15 0 "	
	Turmeric ...	5 0 "	
	All other sorts ...	*Ad valorem.*	

ACT No. XVIII. OF 1870.

An Act to enable the Government of India to exempt goods from Customs duties.

Preamble.

For the purpose of enabling the Governor-General of India in Council to exempt goods from duties of customs; It is hereby enacted as follows:

Power to exempt from customs duties.

I. The said Governor-General in Council may from time to time, by notification in the *Gazette of India*, exempt any goods imported or exported into or from British India, or into or from any specified port or place therein, from the whole or any part of the duties of customs to which they are liable under the Indian Customs Duties' Act, 1870, or any other law for the time being in force relating to such duties,

Power to cancel exemption.

and may, by like notification, cancel any such exemption.

ACT No. XIX. OF 1870.

An Act to enable the Directors of the Bank of Bengal to act by a quorum.

Preamble.

Whereas Section 13 of the Act for regulating the Bank of Bengal (IV. of 1862) declares that the business of the said Bank shall be managed by nine Directors, but does not authorize such business to be managed by a less number; and whereas it is expedient to provide that such business may be managed by a quorum; It is hereby enacted as follows:

Amendment of Act IV of 1862, Section 13.

I. The said Section shall be construed as if, after the words "nine Directors," the words "of whom three shall be a quorum and" were inserted.

Validation of acts of Directors.

II. No act heretofore done by a number of the said Directors less than nine shall be deemed invalid by reason only of its having been done by such less number.

ACT No. XX. OF 1870.

An Act to correct two clerical errors in the Court Fees' Act, 1870.

Preamble.

For the purpose of correcting two clerical errors in the Court Fees' Act, 1870; It is hereby enacted as follows:

Corrections of Act VII of 1870 Section 15, and Schedule I, No. 2.

I. Section 15 of the said Act shall be read as if, for the words "plaint or memorandum of appeal," the word "application" were substituted; and in Schedule I to the said Act annexed, No. 2 shall be read as if the words "or memorandum of appeal" were omitted therefrom.

ACT No. XXI. OF 1870.

An Act to regulate the Wills of Hindús, Jainas, Sikhs and Buddhists in the Lower Provinces of Bengal and in the towns of Madras and Bombay.

Preamble.

Whereas it is expedient to provide rules for the execution, attestation, revocation, revival, interpretation, and probate of the wills of Hindús, Jainas, Sikhs and Buddhists in the territories subject to the Lieutenant-Governor of Bengal and in the towns of Madras and Bombay; It is hereby enacted as follows:

Short Title.

I. This Act may be called "The Hindú Wills' Act, 1870."

Certain portions of Succession Act extended to wills of Hindús, Jainas, Sikhs and Buddhists.

II. The following portions of the Indian Succession Act, 1865, namely.—

Sections 46, 48, 49, 50, 51, 55 and 57 to 77 (both inclusive),

Sections 82, 83, 85, 88 to 103 (both inclusive),

Sections 106 to 177 (both inclusive),

Sections 179 to 189 (both inclusive),

Sections 191 to 199 (both inclusive),

so much of Parts XXX and XXXI as relates to grants of probate and letters of administration with the will annexed, and

Parts XXXIII to XL (both inclusive), so far as they relate to an executor and an administrator with the will annexed,

shall, notwithstanding anything contained in Section 331 of the said Act, apply—

Extent of Act.

(*a*) to all wills and codicils made by any Hindú, Jaina, Sikh or Buddhist, on or after the 1st day of September, 1870, within the said territories or the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Madras and Bombay; and

(*b*) to all such wills and codicils made outside those territories and limits, so far as relates to immoveable property situate within those territories or limits:

Provisoes.

III. Provided that marriage shall not revoke any such will or codicil:

And that nothing herein contained shall authorise a testator to bequeath property which he could not have alienated *inter vivos*, or to deprive any persons of any right of maintenance of which, but for Section 2 of this Act, he could not deprive them by will:

And that nothing herein contained shall vest in the executor or administrator with the will annexed of a deceased person any property which such person could not have alienated *inter vivos:*

And that nothing herein contained shall affect any law of adoption or intestate succession:

And that nothing herein contained shall authorise any Hindú, Jaina, Sikh, or Buddhist to creat in property any interest which he could not have created before the 1st day of September, 1870.

Partial repeal of Bengal Regulation V. of 1799, Section 2.

IV. On and from that day, Section 2 of Bengal Regulation V. of 1799 shall be repealed so far as relates to the executors of persons who are not Muhammadans, but are subject to the jurisdiction of a District Court in the territories subject to the Lieutenant-Governor of Bengal.

Saving of rights of Administrator General.

V. Nothing contained in this Act shall affect the rights, duties and privileges of the Administrators General of Bengal, Madras and Bombay, respectively.

Interpretation Clause.

VI. In this Act and in the said Sections and Parts of the Indian Succession Act, all words defined in Section 3 of the same Act shall, unless there be something repugnant in subject or context, be deemed to have the same meaning as the said the Section 3 has attached to such words respectively:

And in applying Sections 62, 63, 92, 96, 98, 99, 100, 101, 102, 103 and 182 of the said Succession Act, to wills and codicils made under this Act, the words "son," "sons," "child" and "children" shall be deemed to include an adopted child; and the word "grand-children" shall be deemed to include the children, whether adopted or natural-born, of a child whether adopted or natural-born; and the expression "daughertin-law" shall be deemed to include the wife of an adopted son:

And in making grants under this Act, of letters of administration with the will annexed or with a copy of the will annexed, Section 195 of the said Succession Act shall be construed as if the words "and in case the Hindú Wills' Act had not been passed" were added thereto; and Section 198 of the said Succession Act shall be construed as if, after the word "intestate," the words "and the Hindú Wills' Act had not been passed" were inserted; and Sections 230 and 231 of the said Succession Act shall be construed as if the words "if the Hindú Wills' Act had not been passed" were added thereto, respectively.

ACT No. XXII. OF 1870.

An Act to confirm certain laws affecting European British subjects.

Preamble

Whereas the Governors of the Presidencies of Fort St. George and Bombay in Council, and the Lieutenant-Governor of Bengal in Council, have severally passed divers Acts purporting to apply generally to all persons within the local extent of the said Acts; and whereas doubts have been raised as to the validity of such Acts in so far as they affect to render European British subjects liable to be convicted and punished by tribunals other than the High Courts of Judicature at Fort William, Madras and Bombay; and whereas doubts have also been raised as to the application to European British subjects of certain Acts of the Governor-General in Council; For the purpose of removing such doubts, It is hereby enacted as follows:

Confirmation of local Acts so far as regards European British subjects.

I. Every such Act passed by the Governor of the Presidency of Madras in Council, or by the Governor of the Presidency of Bombay in Council, or by the Lieutenant-Governor of Bengal in Council, shall, so far as regards the liability of European British subjects to be convicted and punished thereunder, be and be deemed to have been as valid as if it had been passed by the Governor-General of India in Council at a meeting for the purpose of making Laws and Regulations.

Acts conferring summary jurisdiction over

II. Unless there be something repugnant in the context, all Acts heretofore or hereafter passed by the Governor-General in Council, which confer summary jurisdic-

offences to apply to European British subjects.

tion over offences, shall be deemed to apply to European British subjects, although such persons be not expressly referred to therein.

Amendment of Act XVIII. of 1859, Sections 1, 2 and 4.

III. Act XVIII. of 1859 *(to amend the law relating to offences declared to be punishable on conviction before a Magistrate)* shall be construed as if, in Sections 1, 2 and 4, after the word "heretofore" the words "or hereafter," were inserted.

Saving of limits of Magistrate's ordinary jurisdiction.

IV. Nothing in this Act shall be taken to authorize a Magistrate to exceed the limits of his ordinary jurisdiction as to the amount of punishment which he may inflict, or to confer jurisdiction on any Magistrate not being a Justice of the Peace.

Indemnity Clause.

V. All Magistrates and other persons are hereby indemnified for anything done before the passing of this Act which might lawfully have been done if this Act had been taken in force; and no suit or other proceeding shall be maintained against any such Magistrate or other person in respect of anything so done.

ACT No. XXIII. OF 1870.

THE INDIAN COINAGE ACT, 1870.

Preamble.

I.—Preliminary.

1. Short Title.
2. Repeal of enactments.
3. Interpretation Clause.

II.—Gold Coinage.

4. Gold coins.
5. Their standard weight and fineness. Remedy allowed.

III.—Silver Coinage.

6. Silver coins.
7. Their standard weight and fineness. Remedy allowed.

IV.—Copper Coinage.

8. Copper coins.
9. Their standard weight. Remedy allowed.

V.—Devices on Coins.

10. Present devices on coins.
11. Power to order other devices.

VI.—Legal Tender.

12. Gold coin not a legal tender.
13. Rupees and half rupees a legal tender. Provisoes. Four anna and two-anna pieces.
14. Copper coin when a legal tender.
15. Coin made under former Acts.

VII.—Diminished, Counterfeit, and Called-in Coin.

16. Cutting certain silver coins.
17. Return of cut coin. Receipt of cut coin.
18. Indemnification of public servants for anything done before passing of Act. Bar of suits.

VIII.—Coinage of Bullion.

19. Receipt of gold and silver bullion and coin.
20. Duty on produce of gold bullion.
21. Duty on produce of silver bullion.
22. Charge for melting and cutting bullion.
23. Charge for refining.
24. Certificate for produce of bullion.
25. Withdrawal of bullion.
26. Payment for gold bullion.

IX.—Power to make rules.

27. Rules as to officers and management of the Mint.
28. Rules by notification. Schedule.

An Act to consolidate and amend the law relating to Coinage and the Mint.

Preamble.

Whereas it is expedient to consolidate and amend the law relating to Coinage and the Mint; It is hereby enacted as follows:

I.—Preliminary.

Short Title.

I. This Act may be called "The Indian Coinage Act, 1870."

Repeal of enactments.

II. The Regulations and Acts mentioned in the Schedule hereto annexed are repealed.

Interpretation Clause.

III. In this Act, the expression 'Mint' includes the Mints at Calcutta, at Bombay, and at such other places (if any) as the Governor-General in Council, by notification in the *Gazette of India*, from time to time directs;

the expression 'Mint-rules' means such rules as the Governor-General in Council from time to time prescribes for the management of the Mint;

and the expression 'remedy' means variation from the standard weight and fineness.

II.—Gold Coinage.

Gold coins.

IV. The under-mentioned gold coins only shall be coined at the Mint:—

(1.)—A gold mohur or fifteen-rupee piece.
(2.)—A five-rupee piece equal to a third of a gold mohur.
(3.)—A ten-rupee piece equal to two-thirds of a gold mohur.
(4.)—A thirty-rupee piece or a double gold mohur.

Their standard weight and fineness.

V. The standard weight of the said gold mohur shall be 100 and 80 grains Troy, and its standard fineness shall be as follows:—eleven-twelfths, or one hundred and sixty-five grains, of fine gold, and one-twelfth, or fifteen grains, of alloy.

The other gold coins shall be of proportionate weight and of the same fineness:

Remedy allowed.

Provided that, in the making of gold coins, a remedy shall be allowed of an amount not exceeding two thousandths in weight and two thousandths in fineness.

III.—Silver Coinage.

Silver coins.

VI. The under-mentioned silver coins only shall be coined at the Mint:—

(1.)—A rupee to be called the Government rupee.
(2.)—A half rupee.
(3.)—A quarter rupee, or four-anna piece.
(4.)—An eighth of a rupee, or two-anna piece.

Their standard weight and fineness

VII. The standard weight of the Government rupee shall be one hundred and eighty grains Troy, and its standard fineness shall be as follows:—eleven-twelfths, or one hundred and sixty-five grains, of fine silver, and one-twelfth, or fifteen grains, of alloy.

The other silver coins shall be of proportionate weight and of the same fineness:

Remedy allowed.

Provided that, in the making of silver coins, a remedy shall be allowed of an amount not exceeding the following :—

	Remedy in weight.	Remedy in fineness.
Rupee	Five thousandths.	Two thousandths.
Half rupee		
Quarter rupee	Seven thousandths	Three thousandths.
Eighth of a rupee	Ten thousandths	

IV.—Copper Coinage.

Copper coins.

VIII. The under-mentioned copper coins only shall be coined at the Mint :—

(1.)—A double pice, or half anna.

(2.)—A pice, or quarter anna.

(3.)—A half pice, or one-eighth of an anna.

(4.)—A pie, being one-third of a pice, or one-twelfth of an anna.

Their weight.

IX. The weight of the double pice shall be two hundred grains Troy.

The other copper coins shall be of proportionate weight :

Remedy allowed.

Provided that, in the making of copper coins, a remedy shall be allowed of an amount not exceeding one-fortieth in weight.

V.—Devices on Coins.

Present devices on coins.

X. Until the Governor-General in Council otherwise orders under the power hereinafter conferred, the coins coined under this Act shall bear on the obverse the likeness of Her Majesty Queen Victoria, and the inscription "Victoria Queen," and on the reverse the designation of the coins in English filled by the word "India," with such date and embellishments on each coin as the Governor-General in Council from time to time determines.

Power to order other devices.

XI. The Governor-General in Council may, from time to time, by notification in the *Gazette of India*, direct the coining and issuing of all coins authorized by this Act, and prescribe, in lieu of the likeness and inscription hereinbefore mentioned, such other likeness and inscription for all or any of the said coins as he thinks fit.

VI.—Legal Tender.

Gold coin not legal tender.

XII. No gold coin shall be a legal tender in payment or on account.

Rupees and half rupees a legal tender.

XIII. The said rupee and half rupee shall be a legal tender in payment or on account :

Provided that the coin has not lost more than two per cent. in weight :

Provided, also, that it has not been clipped or filed, or defaced or diminished, otherwise than by use.

The quarter rupee and eighth of a rupee shall be legal tender only for the fractions of a rupee, subject to the second proviso contained in this Section.

Four-anna and two-anna pieces.

Copper coin when a legal tender.

XIV. The double pice shall be a legal tender for the thirty-second part of a rupee or for half an anna;

the pice for the sixty-fourth part of a rupee or for one-fourth of an anna;

the half pice for the one hundred and twenty-eighth part of rupee or for one-eighth of an anna:

and the pie for the hundred and ninety-second part of a rupee or for one-twelfth of an anna;

Provided that none of the said copper coins shall be a legal tender, except for the fractions of a rupee.

Coin made under former Acts

XV. All silver coin of the weight and standard specified in the Acts XVII. of 1835, XXI. of 1838, and XIII. of 1862, issued since the passing of those Acts, respectively, and declared by those Acts, respectively, to be a legal tender.

and all copper coins of the weight specified in Acts XXI. of 1835, XXII. of 1844, and XIII. of 1862, issued since the passing of those Acts, respectively, and declared by those Acts, respectively, to be a legal tender,

shall continue to be a legal tender for the amounts thereof, respectively, subject to the same conditions and provisions as under those Acts, respectively, anything contained in this Act or in any Act hereby repealed notwithstanding.

VII.—Diminished, Counterfeit, and Called-in Coin.

Cutting certain silver coins.

XVI. When any silver coin purporting to be coined and issued under the authority of the Government of India is tendered to any officer authorized by the Governor-General in Council or the local Government to act under this Section, who has reason to believe it to have lost, by reasonable wearing, more than two per cent. in weight,

or to be counterfeit,

or to have been reduced in weight otherwise than by reasonable wearing,

or to be called-in by any proclamation,

he may, by himself or another,

(subject to the rules which the Governor-General in Council prescribes in this behalf),

cut or break such coin.

Return of cut coin.

XVII. If any coin so cut or broken is counterfeit, or has been reduced in weight otherwise than by reasonable wearing, the pieces shall be returned to the person tendering the coin, and he shall bear the loss caused by such cutting or breaking.

Receipt of cut coin.

But if it has been coined and issued by the authority of the Government of India, and has lost, by reasonable wearing, more than two per cent. in weight, or has been called-in by any proclamation, the officer cutting or breaking the same shall receive it at the rate of one rupee per tola.

Indemnification of public servants.

XVIII. All public servants are hereby indemnified for anything done heretofore, which they might lawfully have done if this Act had been in force, and if they had been authorized under Section 16, and no suit or other proceeding shall be maintained against any such person in respect of anything so done.

Bar of suits for acts done bonâ fide.

No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

VIII.—Coinage of Bullion.

Receipt of gold and silver bullion and coin.

XIX. Subject to the Mint-rules for the time being in force, the Mint Master shall receive all gold and silver bullion and coin brought to the Mint:

Provided that such bullion and coin be fit for coinage:

Provided, also, that the quantity so brought at one time by one person is not less, in the case of gold, than fifty tolas, and, in the case of silver, than one thousand tolas.

Duty on produce of gold bullion.

XX. A duty shall be levied at the rate of one rupee per cent. at the Mint on the produce of all gold bullion and on all gold coin brought for coinage to the Mint in accordance with the said Mint-rules.

Duty on produce of silver bullion.

XXI. All silver bullion or coin brought for coinage to the Mint, in accordance with the said Mint-rules, shall be subject to a duty at the rate of two per cent. on the produce of such bullion or coin, and the amount of such duty shall be deducted from the return to be made to the proprietor.

Charge for melting and cutting bullion.

XXII. A charge of one-fourth per mille on gold bullion and coin, and of one per mille on silver bullion and coin, shall also be levied for melting or cutting such bullion and coin so as to render the same fit for receipt into the Mint.

Charge for refining

XXIII. All gold and silver bullion and coin brought to the Mint for coinage and which is inferior to the standard fineness prescribed by this Act, or which, from brittleness or other cause, is unfit for coinage, shall, in case it is refined, be subject, in addition to the duty and charge aforesaid, to such charge on account of the loss and expense of refining as the Governor-General in Council prescribes in this behalf.

Certificate for produce of bullion.

XXIV. The Mint Master, on the delivery of gold or silver bullion or coin into the Mint for coinage, shall grant to the proprietor a receipt which shall entitle him to a certificate from the Assay Master for the net produce of such bullion or coin payable at the General Treasury.

Withdrawal of bullion.

XXV. The proprietor of any bullion or coin so delivered for coinage, who is dissatisfied with the Assay Master's report of its value, may within twenty-four hours after receiving such report, and subject to payment of the fee prescribed in this behalf by the Governor-General in Council, withdraw such bullion or coin without being subject to the duties on coinage imposed by this Act.

Payment for gold bullion.

XXVI. For all gold bullion and coin, in respect of which the Assay Master has granted a certificate, payment shall be made, as nearly as may be, in gold coins coined under this Act or Act XVII. of 1835; and the balance (if any) due to the proprietor shall be paid in silver, or in silver and copper coins current in British India.

IX.—Power to make rules.

Rules as to officers and management of the Mint.

XXVII. The Governor-General in Council may, from time to time,

(1) fix the number and duties of the officers of, and persons employed in, the Mint:

(2) make rules and give directions (subject to the provisions of this Act; and any notification made thereunder) respecting the management of the Mint, and revoke and alter such rules and directions.

Rules by notification.

XXVIII. The Governor-General in Council may also, from time to time, by notification in the *Gazette of India*,—

(1) diminish the amount of remedy allowed by Sections 5, 7 and 9 in the case of any coin:

(2) determine in the case of any coin the date and embellishments to be put thereon:

(3) call-in coins of any date or denomination, or any coins coined before the date in the notification mentioned:

(4) prescribe rules for the guidance of officers authorized to cut or break coin under Section 16:

(5) prescribe the charge to be made on account of the loss and expense of refining:

(6) determine the period for which certificates granted under Section 24 shall run:

(7) fix the fee payable under Section 25:

(8) establish a Mint at any place in British India, other than Calcutta and Bombay:

(9) abolish any Mint so established or any Mint now existing in British India:

(10) regulate any matters relative to coinage and to the Mint, which are not provided for by this Act:

(11) revoke or alter any notification previously made under this Act.

Every such notification shall come into force on the day therein in that behalf mentioned, and shall have effect as if it were enacted in this Act.

SCHEDULE.

Number and year.	Title or subject.
Bengal Regulation II. of 1812.	A Regulation for levying a Duty on the Coinage of Silver Bullion and on the Re-coinage of Rupees and other Coins, with certain Exceptions, at the Mints established at Calcutta, Furruckabad, and Benares: for defining the Weight and Standard of the Benares Rupee; for modifying the Rates of Duty at present levied on the Coinage of Gold Bullion in the Mint of Calcutta; and also for establishing certain Rules for the Conduct of the Business of the above-mentioned Mints, respectively.
Bengal Regulation XIV. of 1817	A Regulation for amending certain Parts of Regulation II., 1812.
Bengal Regulation XIV. of 1818	A Regulation for altering the Standard of the Calcutta Sicca Rupee and Gold Mohur, and for further modifying some of the Rules in force respecting those Coins.
Bengal Regulation V. of 1819.	A Regulation for modifying certain Parts of the Rules in force in regard to the Conduct of the Business of the Mints subordinate to this Presidency.
Act XVII. of 1835 ...	Gold and Silver coinage.
Act XIII. of 1862 ...	An Act to provide for a new Silver and a new Copper Coinage.

ACT No. XXIV. OF 1870.

I.—PRELIMINARY.

1. Short Title.
2. Interpretation Clause.

II.—VESTING ORDER.

3. Power to vest management of taluqdár's property in an officer appointed by Chief Commissioner.
4. Effect of order. Bar of suits against taluqdár. Taluqdár freed from arrest, and his moveable property from attachment for prior debts. Cessation of his power to alienate. Immoveable property freed from attachment.

III.—DUTIES OF MANAGER.

5. Manager to receive rents and profits, and pay therefrom the Government demand, an annual sum for maintenance of the taluqdár and his heir, costs of repairs and improvements, costs of management, and the debts and liabilities.

IV.—SETTLEMENT OF DEBTS.

6. Notice to claimants against taluqdár. Copies of notice to be exhibited.
7. Claim to contain full particulars. Documents to be given up. Entries in books. Exclusion of documents not produced.
8. Debt or liability not duly notified, to be barred. Provision for admission of claim within further period of nine months.
9. Determination of debts and liabilities.
10. Appeal.
11. Scheme for settlement of debts and liabilities. Power to return scheme for revision.
12. Restoration of taluqdár to his property. Revival of barred proceedings and debts.

V.—POWERS OF MANAGER.

13 Power to call for further particulars
14 Power to summon witnesses and compel production of documents.
15 Power to administer oaths
16 Investigation to be deemed a judicial proceeding Settlements of persons examined, to be evidence
17 Manager to have powers of a taluqdar. Powers to remove mortgagee in possession.
18 Power to lease
19. Power to raise money by mortgage or sale Manager's receipts.

VI.—MISCELLANEOUS.

20. Power to make rules
21. Power to appoint new Managers.
22. Managers to be public servants
23 Bar of suits.
24. Petitions, &c, under Act exempt from Court fees.
25. Saving of jurisdiction of Courts in Oudh in respect of certain suits.

An Act to relieve from incumbrances the estates of Taluqdárs in Oudh.

Preamble.

Whereas many of the taluqdárs of Oudh are in debt, and their immoveable property is subject to mortgages, charges and liens; and whereas it is expedient to provide for their relief in manner hereinafter appearing; It is hereby enacted as follows:

I.—PRELIMINARY.

Short Title.

I. This Act may be called "The Oudh Taluqdárs' Relief Act."

Interpretation Clause.

II. In this Act—

'Chief Commissioner' means the Chief Commissioner of Oudh:

'taluqdár' means a person whose name is entered in the first of the lists mentioned in the Oudh Estates' Act, 1869, Section 8:

'heir' means the person for the time being entitled under the same Act as heir to a taluqdár.

II.—VESTING ORDER.

Power to vest management of taluqdár's property in an officer appointed by Chief Commissioner.

III. Whenever, within twelve months after the passing of this Act, any taluqdár,

or (when such taluqdàr is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

or the person who would be heir to such taluqdár if he died intestate,

or (when such person is an infant, or of unsound mind, or an idiot) his guardian, committee, or other legal curator,

applies in writing to the Chief Commissioner, stating that the taluqdár is subject to, or that his immoveable property is charged with, debts or liabilities other than debts due, or liabilities incurred, to Government, and requesting that the provisions of this Act be applied to his case,

the Chief Commissioner may, with the previous consent of the Governor-General of India in Council, by order published in the local official Gazette, appoint an officer (hereinafter called the Manager), and vest in him the management of the immoveable property of or to which the taluqdár is then possessed or entitled in his own right, or which he is entitled to redeem, or which may be acquired by or devolve on the taluqdár or his heir during the continuance of such management.

Effect of order.

IV. On such publication, the following consequences shall ensue:—

Bar of suits against taluqdar.

first, all proceedings in respect to such debts or liabilities which may then be pending in any Civil Court in British India, shall be barred: and all processes, executions

and attachments for or in respect of such debts and liabilities shall become null and void;

Taluqdár freed from arrest,

secondly, so long as such management continues,

the taluqdár and his heir shall not be liable to arrest for or in respect of the debts and liabilities to which the taluqdár was immediately before the said publication subject, or with which his immoveable property or any part thereof was then charged, other than debts due, or liabilities incurred, to Government;

and his moveable property from attachment for prior debts.

nor shall their moveable property be liable to attachment or sale under process of any Civil Court in British India for or in respect of such debts and liabilities other than as aforesaid; and

Cessation of his power to alienate.

thirdly, so long as such management continues,

(*a*) the taluqdár and his heir shall be incompetent to mortgage, charge, lease or alienate their immoveable property or any part thereof, or to grant valid receipts for the rents and profits arising or accruing therefrom,

Immoveable property freed from attachment.

and (*b*) such property shall be exempt from attachment or sale under such process as aforesaid, except for or in respect of debts due, or liabilities incurred, to Government.

III.—Duties of Manager.

Manager to receive rents and profits,

V. The Manager shall, during his management of the said property, receive and recover all rents and profits due in respect thereof; and shall, upon receiving such rents and profits, give receipts for the same.

From the sums so received, he shall pay—

and pay there from the Government demand,

first, the Government revenue, and all debts or liabilities for the time being due or incurred to Government in respect of the said property:

an annual sum for maintenance of the taluqdár and his heir,

secondly, such annual sum as appears to the Chief Commissioner requisite for the maintenance of the taluqdár, his heir and their families:

costs of repairs and improvements.

thirdly, the costs of such repairs and improvements of the property as appear necessary to the Manager and are approved by the Chief Commissioner:

costs of management, and the debts and liabilities,

and the residue shall be applied in discharge of the costs of the management, and in settlement of such debts and liabilities of the taluqdár and his heir and their immoveable property, as may be established under the provisions hereinafter contained.

IV.—Settlement of Debts.

Notice to claimants against taluqdár.

VI. On the publication of the order vesting in him the management of the said property, the Manager shall publish in the local official Gazette a notice in English and Urdú, calling upon all persons having claims against the taluqdár or his immoveable property to notify the same in writing to such Manager within three months from the date of the publication.

He shall also cause copies of such notice to be exhibited at the Tahsíldárs' Kachahrís in the District or Districts in which the said property lies and at such other places as the Manager thinks fit.

Copies of notice to be exhibited

Claim to contain full particulars.

VII. Every such claimant shall, along with his claim, present full particulars thereof.

Documents to be given up.

Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

Entries in books.

If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

Exclusion of documents not produced

If any document in the possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Debt or liability not duly notified, to be barred.

VIII. Every debt or liability (other than debts due, or liabilities incurred, to Government) to which the taluqdár is subject, or with which his immoveable property or any part thereof is charged, and which is not duly notified to the Manager within the time and in manner hereinbefore mentioned, shall be barred:

Provision for admission of claim within further period of nine months.

Provided that, when proof is made to the Manager that the claimant was unable to comply with the provisions of Sections 6 and 7, the Manager may admit such claim within the further period of nine months from the expiration of the said period of three months.

Determination of debts and liabilities.

IX. The Manager shall, in accordance with the rules to be made under this Act, determine the amount of the debts and liabilities due to the several creditors of the taluqdár and persons holding mortgages, charges or liens on the said property or any part thereof.

Appeal.

X. An appeal against any refusal, admission or determination under Section 7, 8 or 9 shall lie, if preferred within six weeks from the date of such determination, to the Commissioner of Division to whom the Manager is subordinate, and the decision of such Commissioner, or of the Manager if no such appeal has been so preferred, shall be final.

Scheme for settlement of debts and liabilities.

XI. When the total amount of such debts and liabilities has been finally determined, the Manager shall prepare and submit to the Chief Commissioner a schedule of such debts and liabilities, and a scheme for the settlement thereof; and such scheme, when approved by the Chief Commissioner, shall be carried into effect.

Power to return scheme for revision.

Until such approval is given, the Chief Commissioner may, as often as he thinks fit, send back such scheme to the Manager for revision, and direct him to make such further enquiry as may be requisite for the proper preparation of the scheme.

Restoration of taluqdár to his property.

XII. When all such debts and liabilities have been discharged,

or if, within six months after the publication of the order mentioned in Section 3, the Chief Commissioner thinks that the provisions of this Act should not continue to apply to the case of the taluqdár or his heir,

the taluqdár or his heir shall be restored to the possession and enjoyment of his immoveable property, or of such part thereof as has not been sold by the Manager under the power contained in Section 19, but subject to the leases and mortgages (if any) granted and made by the Manager under the powers hereinafter contained.

Revival of barred proceedings and debts.

Where the taluqdár or his heir is so restored under the circumstances mentioned in the second clause of this Section, the proceedings, processes, executions and attachments mentioned in Section 3 (so far as they relate to debts and liabilities not settled by the Manager), and the debts and liabilties barred by Section 8 shall be revived, and any mortgagee dispossessed under Section 17 shall be reinstated unless his claim under the mortgage has been satisfied.

and in calculating the periods of limitation applicable to such revived proceedings and to suits to recover and enforce such revived debts and liabilties, the time intervening between such restoration and the publication of the order mentioned in Section 3 shall be excluded.

V.—Powers of Manager.

Power to call for further particulars.

XIII. The Manager may from time to time call for further and more detailed particulars of any claim preferred before him under this Act, and may at his discretion refuse to proceed with the investigation of the claim until such particulars are supplied.

Power to summon witnesses and compel production of documents.

XIV. For the purposes of this Act, the Manager may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means, and as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.

Power to administer oaths.

XV. The Manager may administer an oath in such form as he thinks fit to any person examined before him touching the matters to be enquired into under this Act.

Investigation to be deemed a judicial proceeding.

XVI. Every investigation conducted by the Manager with reference to any claim preferred before him under this Act or to any matter connected with any such claim shall be taken to be a judicial proceeding within the meaning of the Indian Penal Code.

Statements of persons examined, to be evidence.

And every statement made by any person examined by or before the Manager with reference to such investigation, whether upon oath or otherwise, shall be taken to be evidence within the meaning of the same Code.

Manager to have powers of a taluqdár.

XVII. The Manager shall have, for the purpose of realizing and recovering the rents and profits of the said inmoveable property, the same powers as the taluqdár would have had for such purpose if this Act had not been passed.

And if such property, or any part thereof, be in the possession of

Power to remove mortgagee in possession.

any mortgagee, the Manager may apply to the Court of the Deputy Commissioner within whose jurisdiction the property is situate, and such Court shall cause the same to be delivered to the Manager as if a decree therefor had been made in his favour; but without prejudice to the mortgagee preferring his claim under the provisions hereinbefore contained.

Power to lease.

XVIII. Subject to the rules made under Section 20, the Manager shall have power to demise all or any part of the said property for any term of years not exceeding twenty years absolute, to take effect in possession, in consideration of any fine or fines, or without fine, and reserving such rents and under such conditions as may be agreed upon.

Power to raise money by mortgage or sale.

XIX. The Manager, with the previous assent of the Chief Commissioner, shall have power to raise any money which may be required for the settlement of the debts and liabilities (other than as aforesaid) to which the taluqdár is subject, or with which his immoveable property or any part thereof is charged,

by demising by way of mortgage the whole or any part of such property for a term not exceeding twenty years from the said publication,

or by selling, with the previous consent of the taluqdár and of the person (being of full age) who would be his heir if he died intestate, by public auction or by private contract, and upon such terms as the Manager thinks fit, such portion of the same property as may appear expedient.

And no mortgagee advancing money upon any mortgage made under this Section, shall be bound to see that such money is wanted or that no more than is wanted is raised.

Manager's receipts.

And the receipt of the Manager for any monies paid to him upon any mortgage or sale made under this Section, or for any rents or profits received by him under Section 5, shall discharge the person paying the same therefrom and from being concerned to see to the application thereof.

The power to mortgage conferred by this Section shall not be exercisable until six months have elapsed from the publication of the order mentioned in Section 3.

VI.—Miscellaneous.

Power to make rules.

XX. The Chief Commissioner may, from time to time, make rules consistent with this Act in all matters connected with its enforcement.

Such rules, when approved by the Governor-General of India in Council, and published in the local official Gazette, shall have the force of law.

Power to appoint new Managers.

XXI. Whenever the Chief Commissioner thinks fit, he may appoint any officer to be a Manager in the stead of any Manager appointed under this Act; and thereupon the management then vested under this Act in the former Manager shall become vested in the new Manager.

Every such new Manager shall have the same powers as if he had been originally appointed.

Managers to be public servants.

XXII. Every Manager appointed under this Act shall be deemed a public servant within the meaning of the Indian Penal Code.

Bar of suits.

XXIII. No suit or other proceeding shall be maintained against any person in respect of anything done by him *bonâ fide* pursuant to this Act.

Petitions, &c., under Act exempt from Court fees.

XXIV. No petition, application, memorandum of appeal or other proceeding under this Act, shall be chargeable under the Court Fees' Act, 1870.

Saving of jurisdiction of Courts in Oudh in respect of certain suits.

XXV. Nothing in this Act precludes the Courts of the Province of Oudh, having jurisdiction in suits relating to the succession to or rights of persons claiming maintenance from any immoveable property brought under the operation of this Act, from entertaining and disposing of such suits; but to all such suits the Manager of such property shall be made a party.

Act No. XXV. of 1870.

An Act to legalize the levy of certain duties on timber imported into Maulmain.

Preamble.

Whereas certain duties were in the years 1864 and 1865 levied on foreign timber imported into Maulmain by the River Salween; and whereas doubts have been raised to the legality of the levy of such duties, and it is expedient to preclude such doubts; It is hereby enacted as follows:

Legalization of levy of duties

I. All duties levied between the 1st day of July, 1864, and the 2nd day of August, 1865 (both inclusive) on foreign timber imported into Maulmain by the River Salween, shall be deemed to have been levied in accordance with law.

Indemnity clause.

II. All officers and other persons are hereby indemnified for anything done before the passing of this Act which might lawfully have been done if this Act had been in force; and no suit or other proceeding shall be maintained against any such officer or other person in respect of anything so done.

Act No. XXVI. of 1870.

THE PRISONS' ACT, 1870.

ARRANGEMENT OF SECTIONS.

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An Act to amend the law relating to Prisons.

Preamble.

Whereas it is expedient to amend the law relating to Prisons in the North-Western Provinces, the Punjab, Oudh, the Central Provinces and British Burmah, and to provide rules for the regulation of such prisons; It is hereby enacted as follows:

CHAPTER I.

PRELIMINARY.

Short Title.

I. This Act may be called "The Prisons' Act, 1870."

Local extent.

It extends only to the territories respectively under the government of the Lieutenant-Governors of the North-Western Provinces and the Punjab, and under the administration of the Chief Commissioners of Oudh, the Central Provinces and British Burmah:

Commencement of Act.

And it shall come into force on the 1st day of December, 1870.

Repeal of enactments.

II. On and after that day the enactments mentioned in the Schedule to this Act annexed shall be repealed to the extent specified in the third column of the said schedule.

Interpretation Clause.

III. In this Act—

"Prison."

"prison" means any gaol or penitentiary, and includes the airing grounds or other grounds or buildings occupied for the use of the prison;

"Criminal prisoner."

"criminal prisoner" means any prisoner charged with or convicted of a crime;

"Civil prisoner."

and "civil prisoner" means any prisoner confined in a civil jail, or on the civil side of a jail.

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

Local Government to provide prison accommodation.

IV. The local Government shall provide for the prisoners in the territories under such Government, accommodation in a prison or prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Temporary shelter of prisoners.

V. Whenever it appears to the local Government that the number of prisoners in any prison is greater than can conveniently or safely be kept therein,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made by such officer and in such manner as the local Government from time to time directs, for the temporary shelter and safe custody of so many of the prisoners as cannot be conveniently or safely kept in the prison.

Prisoners for whom such temporary shelter is provided shall be subject to the same rules as if they were within the prison.

Inspector General of Prisons.

VI. An Inspector General of Prisons shall be appointed in the North-Western Provinces by the local Government, in the Punjab by the local Government, and in Oudh, the Central Provinces and British Burmah, by the Governor-General in Council.

In each Inspector General so appointed shall be vested (subject to the orders of the local Government) the general control and superintendence of all prisons situate in the territories under such Government.

Officers of prison.

VII. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Gaoler, and such subordinate officers as the local Government thinks necessary.

Subject to the orders of the Governor-General in Council, the local Government may direct that for any specified prison there shall also be a Deputy Medical Officer and a Deputy Gaoler.

Appointment of officers.

VIII. The local Government shall appoint the Superintendent and the Medical Officer and the Deputy Medical Officer.

The Superintendent (subject te the approval of the Inspector General of Prisons) shall appoint the Gaoler and Deputy Gaoler

The Superintendent shall also appoint the subordinate officers.

Salaries, suspension and dismissal of officers.

IX. Every officer appointed under this Act shall receive such salary as (subject to the approval of the Governor-General of India in Council) the local Government directs; and may be suspended or dismissed by the authority appointing him:

Provided that no Gaoler or Deputy Gaoler shall be dismissed without the consent of the Inspector General of Prisons.

Any subordinate officer dismissed under this Section may appeal to the Inspector General, whose orders on such appeal shall be final.

CHAPTER III.

DUTIES OF OFFICERS.

Generally.

Officers to obey Superintendent.

X. All officers of a prison shall obey the directions of the Superintendent: all subordinate officers shall perform such duties as may be directed by the Gaoler with the sanction of the Superintendent; and the duties of each subordinate officer shall be inserted in a book to be kept by him.

Officers not to sell or let to prisoners.

XI. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner.

Officers not to contract with prisoners; nor to benefit by sales.

XII. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor, except so far as is expressly allowed by rules made under Section 54, shall he derive any benefit, directly or indirectly, from the sale of any article on behalf of the prison or belonging to a prisoner.

Superintendent.

Duties of Superintendent.

XIII. Subject to the orders of the Inspector General of Prisons, the Superintendent shall—

manage the prison in all matters relating to the discipline, labour, expenditure, punishment and control:

correspond on all matters connected with the prison with and through the Inspector General:

submit to the Inspector General all bills of prison expenditure with proper vouchers for audit:

report to the Inspector General from time to time, as they occur, all escapes and recaptures, and all out-breaks of epidemic disease:

send to the Inspector General returns of all prisoners sentenced to transportation:

periodically inspect all property of the Government in his charge, and report thereon to the Inspector General;

and, generally, obey all rules made under Section 54 for the guidance of the Superintendent.

The Superintendent shall also obey all orders respecting the prison given by the Magistrate of the District, or the Deputy Commissioner, as the case may be, and shall report to the Inspector General all such orders and the action taken thereon.

Medical Officer.

Power to make rules as to Medical Officer's duties.

XIV. The local Government shall make rules as to each of the following masters:

how often the Medical Officer shall visit the prison and see each prisoner:

the records to be made respecting sick prisoners:

periodical inspection of every part of the prison:

reports on its cleanliness, drainage warmth and ventilation:

reports on the provisions, water, clothing and bedding supplied to the prisoners.

Medical Officer to obey such rules.

The Medical Officer shall obey such rules.

To report special cases.

XV. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such directions as the Medical Officer thinks proper.

To make entries as to death of prisoners.

XVI. On the death of any prisoner, the Medical Officer shall forthwith record in writing the following particulars, namely,—

when the deceased was taken ill,

when the Medical Officer was first informed of the illness,

the nature of the disease,

when the prisoner died,

and (in cases where a *post mortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the Medical Officer to be required.

Deputy Medical officer.

XVII. Where a Deputy Medical Officer is appointed to a prison, he shall be competent to perform any duty required by this Act, or by any rule made hereunder, to be performed by the Medical Officer.

Subordinate Medical Officer.

When there is no Deputy Medical Officer, or when his services are not available by reason of sickness or other cause, the local Government may, by general or special order, appoint a Subordinate Medical Officer to act as a substitute for the Medical Officer, and the Subordinate Medical Officer so appointed shall perform all the duties of the Medical Officer.

Gaoler.

Residence of Gaoler

XVIII. The Gaoler shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere. The Gaoler shall not, without the Inspector General's sanction, be concerned in any other employment.

To deliver list of prisoners confined in punishment-cells.

XIX. The Gaoler shall deliver to the Medical Officer daily a list of such prisoners as are confined in punishment-cells.

To give notice of death of prisoners.

XX. Upon the death of a prisoner, the Gaoler shall give immediate notice thereof to the Superintendent.

To keep enumerated books and accounts.

XXI. The Gaoler shall keep, or cause to be kept, the following records :—

(1) a register of warrants;

(2) a book showing when each prisoner is to be released;

(3) a punishment-book for the entry of the punishments inflicted for prison-offences;

(4) visitors' book for the entry of any observations made by visitors to the prison;

(5) a record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules made under Section 54.

Responsible for safe custody of documents.

XXII. The Gaoler shall be responsible for the safe custody of the records to be kept by him under Section 21, and also for the commitments and all other documents confided to his care.

Not to be absent without leave.

XXIII. The Gaoler shall not be absent from the prison for a night without permission in writing from the Superintendent; but if absent without leave for a night from unavoidable necessity, he shall report the fact and the cause of it to the Superintendent.

Deputy Gaoler.

XXIV. Where a Deputy Gaoler is appointed to a prison, he shall be competent to perform any duty required by this Act, or by any rule made under Section 54, to be performed by the Gaoler.

Where there is no Deputy Gaoler, or where his services are not available by reason of sickness or other cause, the Superintendent shall, when the Gaoler is absent from the prison or temporarily incapacitated, appoint an officer of the prison to act as his substitute during such absence or incapacity, and the substitute so appointed shall have all the powers and perform all the duties of the Gaoler.

Subordinate Officers.

Powers of Gate-Porter.

XXV. The officer acting as Gate-Porter, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search any person suspected of bringing in spirits or other prohibited articles into the prison, or of carrying out any property belonging to the prison, and if any such articles or property be found, shall give immediate notice thereof to the Gaoler.

Subordinate officers not to be absent without leave.

XXVI. Subordinate officers shall not be absent from the prison without leave from the Superintendent, or from the Gaoler, and before absenting themselves they shall leave their keys in the Gaoler's office.

CHAPTER IV.

Admission, Removal and Discharge of Prisoners.

Prisoners to be searched on entrance.

XXVII. When a prisoner is first admitted, and whenever he afterwards enters the prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Medical examination of criminal prisoners.

Every criminal prisoner shall also, as soon as possible after admission, be examined by the Medical Officer, who shall enter in a book, to be kept by the Gaoler, a record of the state of the prisoner's health, and any observations which the Medical Officer thinks fit to add.

Effects of criminal prisoners retained.

XXVIII. All money or other effects in respect whereof no order of a competent Court has been made, and which may be brought into the prison by any criminal prisoner, or sent to the prison for his use, shall be placed in the custody of the Gaoler.

Medical examination before removal and discharge of prisoners.

XXIX. All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

No prisoner shall be removed to any other prison unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

CHAPTER V.

DISCIPLINE OF PRISONERS.

Requisitions of Act as to separation of prisoners.

XXX. The requisitions of this Act, with respect to the separation of prisoners, are as follows:—

(1.)—In a prison containing female prisoners as well as males, the women shall be imprisoned in separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the men.

(2.)—In a prison where children under twelve years of age are confined, means shall be provided for separating them altogether from the other prisoners.

(3.)—Criminal prisoners before trial shall be kept apart from convicted prisoners.

(4.)—Civil prisoners shall be kept apart from criminal prisoners.

Rules as to separate confinement.

XXXI. The local Government shall have power to make rules—

(1) as to what cells only shall be used for the separate confinement of prisoners:

(2) as to the time during which prisoners not guilty of offences against prison rules may be confined separately.

Cells to be furnished with means of communication.

XXXII. No cell shall be used for separate confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison.

Prisoners under sentence of death.

XXXIII. Every prisoner under warrant or order for execution shall immediately on his arrival in the prison after sentence, be searched by, or by order of, the Gaoler, and all articles shall be taken from him which the Gaoler deems it dangerous or inexpedient to leave in his possession.

Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of an officer or guard.

CHAPTER VI.

FOOD, CLOTHING AND BEDDING OF PRISONERS.

Civil prisoner may maintain himself.

XXXIV. A civil prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding, or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

Civil prisoner not to sell provisions.

XXXV. No part of any food, clothing, bedding or other necessaries belonging to any civil prisoner shall be sold to any other prisoner; and any civil prisoner transgressing this regulation shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

Allowance of clothing and bedding.

XXXVI. Every civil prisoner unable to provide himself with sufficient clothing and bedding, shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

Judgment-creditor to defray such allowance.

When any such prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall be liable to pay to the Superintendent on demand the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner shall be released.

CHAPTER VII.

EMPLOYMENT OF PRISONERS.

Work and earnings of civil prisoners.

XXXVII. Civil prisoners may, with the Superintendent's permission, work and follow their respective trades and professions.

Civil prisoners finding their own implements and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements, or are maintained at the expense of the prison, shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

Examination by Medical Officer of labouring prisoners.

XXXVIII. The Medical Officer shall, from time to time, examine the labouring prisoners while they are employed, and shall enter in his journal the name of any prisoner whose health he thinks likely to be injured by a continuance at hard labour, and thereupon such prisoner shall not again be employed at such labour until the Medical Officer certifies that he is fit for such employment.

But if the Medical Officer certifies that such prisoner may without detriment to his health be employed on some lighter kind of labour, it shall be lawful for the Gaoler so to employ him.

Employment of prisoners sentenced to simple imprisonment.

XXXIX. Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment.

The Superintendent shall make rules as to the amount and nature of such employment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work, excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such prisoners.

CHAPTER VIII.

Health of Prisoners.

Names of sick prisoners to be reported to Gaoler.

XL. The names of prisoners desiring to see the Medical Officer or appearing out of health in mind or body shall be reported by the officer attending them to the Gaoler.

Gaoler to report them to Medical Officer.

The Gaoler shall, without delay, call the attention of the Medical Officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention,

and shall carry into effect the Medical Officer's written directions respecting alterations of the discipline or treatment of any such prisoner.

Entry of directions by Medical Officer.

XLI. All directions given by the Medical Officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in his journal, which shall have a separate column wherein entries shall be made by the Gaoler, stating in respect of each direction the fact of its having been complied with, accompanied by such observations, if any, as the Gaoler thinks fit to make, and the date of the entry.

Infirmaries.

XLII. In every prison an infirmary or proper place for the reception of sick prisoners shall be provided.

CHAPTER IX.

VISITS TO AND CORRESPONDENCE OF PRISONERS.

Visits to prisoners.

XLIII. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom prisoners before trial may desire to communicate.

Correspondence of prisoners.

The local Government shall also impose such restrictions upon the communication and correspondence of prisoners with their friends as it thinks necessary for the maintenance of good order and discipline.

Power of Gaoler as to visitors.

XLIV. The Gaoler may demand the name and address of any visitor to a prisoner; and, when the Gaoler has any ground for suspicion, may search visitors, or cause them to be searched, but the search shall not be in the presence of any prisoner or of another visitor.

In case of any such visitor refusing to be searched, the Gaoler may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in his journal.

CHAPTER X.

OFFENCES IN RELATION TO PRISONS.

Carrying liquor, tobacco or drugs into prison,

XLV. Whoever, contrary to the regulations of the prison, brings, throws, or attepmts by any means whatever to introduce into any prison, or any place provided under Section 5 for the temporary shelter and safe custody of prisoners, any spirituous or fermented liquor, or tobacco, or intoxicating or poisonous drug,

suffering liquor, tobacco or drugs to be sold or used in prison,

and every officer of a prison who knowingly suffers any such liquor, tobacco or drug to be sold or used in such prison or place contrary to such regulations,

carrying letters into and out of prison,

and whoever, contrary to such regulations, conveys, or attempts to convey, any letter or other article not allowed by such regulations, into or out of any such prison or place,

abetment of such offences.

and whoever abets within the meaning of the Indian Penal Code any offence made punishable by this Section,

shall, on conviction before a Magistrate, be liable to rigorous imprisonment for a term not exceeding six months, or to fine not exceeding 200 Rupees, or to both.

Notice of penalties to be placed outside prison.

XLVI. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison or the place provided as aforesaid, a notice setting forth the penalties incurred by persons committing any offence under Section 45.

CHAPTER XI.

Prison Offences.

List of prison offences.

XLVII. The following acts are declared to be offences against prison dicipline :—

(1) wilful disobedience to the regulations of the prison by any prisoner ;

(2) assaults or use of criminal force by any prisoner ;

(3) insulting or threatening language by any prisoner to any officer or prisoner ;

(4) indecent or disorderly behaviour by any prisoner ;

(5) wilfully disabling himself from labour ;

(6) contumaciously refusing to work ;

(7) filing or cutting irons or bars ;

(8) idleness or negligence at work by any convicted criminal prisoner ;

(9) wilful mismanagement of work by any convicted criminal prisoner ;

(10) wilful damage to prison property ;

(11) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

Superintendent's power to punish prison offenders.

XLVIII. The Superintendent may examine any person touching such offences, and determine thereupon, and punish such offences—

(1) by imprisoning the offender in solitary confinement for any time not exceeding seven days ;

(2) by ordering the offender for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as the local Government shall prescribe ;

(3) by corporal punishment not exceeding thirty stripes of a rattan ; or,

(4) where the offender is not sentenced to rigorous imprisonment, by hard labour for any time not exceeding seven days.

The Gaoler shall enter in a separate book, called the punishment-book, a statement of the nature of any offence that has been punished under this Section, with the addition of the name of the offender, the date of the offence, and the amount of punishment inflicted. Such statement shall be signed by the Superintendent.

Punishment of prisoners by Magistrate.

XLIX. If any prisoner is guilty of repeated offences against prison discipline, or is guilty of any offence against prison discipline which the Superintendent thinks is not adequately punishable under Section 48, the Superintendent shall report the same to the Magistrate of the District or any Magistrate empowered to receive complaints without reference by the Magistrate of the District.

Such Magistrate shall have power to inquire upon oath and to determine concerning any matter so reported to him, and to sentence the offender to be punished

by confinement in a punishment-cell or in irons for any term not exceeding six months,

or by corporal punishment not exceeding thirty stripes of a rattan,

or by rigorous imprisonment for a term not exceeding six months, such term to be in addition to the term for which he is undergoing imprisonment.

Nothing in this or the last preceding Section shall authorize the infliction of corporal punishment, or confinement in irons, on any female prisoner or any civil prisoner.

Corporal punishment.

L. All corporal punishment within the prison shall be inflicted in the presence of the Superintendent, subject to the law for the time being in force relating to the infliction of corporal punishment and the precautions to be taken in reference thereto.

Penalty on officers ill-treating prisoners or violating rules.

LI. Every Gaoler and subordinate officer of a prison ill-treating any prisoner, or wilfully violating or neglecting any rule contained in this Act or made under Section 54, shall be liable, on conviction before the Superintendent, to fine not exceeding 100 Rupees, or on conviction before a Magistrate not being the Superintendent, to fine not exceeding 200 Rupees, or rigorous imprisonment for a term not exceeding one month, or both.

Any fine imposed by the Superintendent under this Section may be recovered, either by deductions from the convicted officer's salary and allowances, or under the law for the time being in force for the recovery of fines.

No person shall, under this Section, be punished twice for the same offence.

CHAPTER XII.

MISCELLANEOUS.

Confinement in irons of prisoners sentenced to rigorous imprisonment.

LII. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, the Superintendent may so confine them.

Confinement in irons by Gaoler of his own authority.

LIII. Except in case of urgent necessity, no prisoner shall be put in irons or under mechanical restraint by the Gaoler of his own authority, and notice thereof shall be forthwith given to the Superintendent.

Except in case of urgent necessity, no prisoner shall be kept in irons or under mechanical restraint for more than twenty-four hours, without an order in writing from the Superintendent specifying the cause thereof, and the time during which the prisoner is to be kept in irons or under mechanical restraint. Such order shall be kept by the Gaoler as his warrant.

Power to make supplementary prison rules.

LIV. The local Government may, from time to time, make rules consistent with this Act,

(1) for the government of prisons and for the guidance of all officers appointed hereunder:

(2) as to sales of articles on behalf of prisons or belonging to prisoners, and as to the commission receivable thereon:

(3) as to the food and clothing of criminal prisoners:

(4) for the employment and control of convicts within or without prisons, and for the guidance of the guards in charge of such convicts:

(5) for remission of sentences:
(6) for rewards for good conduct; and
(7) for the appointment and guidance of visitors of prisons.

Copies of such rules, so far as they affect the government of prisons, shall be exhibited in some place to which all persons employed within a prison have access.

Present rules.

LV. All rules now in force relating to any of the matters mentioned in Sections 14, 31, 39 and 54 shall, so far as such rules are consistent with this Act, be deemed to have been made under those Sections respectively.

Exercise of powers of Superintendent.

LVI. All or any of the powers and duties conferred and imposed by this Act on a Superintendent may be exercised and performed by such other officer as the local Government from time to time appoints in this behalf.

SCHEDULE.

[*See* Section 2.]

Number and year.	TITLE.	Extent of repeal.
Bengal Regulation XIV. of 1816.	To provide more effectually for the Management of the Public Jails; and to enable the Magistrates to maintain good Order and Discipline in those Jails; as well as among the Prisoners employed on the Public Roads, or other Public Works:—also to place the Jail at Allypore, in the Vicinity of Calcutta, under the inspection and control of the Court of Nizamut Adawlut; and to provide for the Transportation of Convicts to the Island of Mauritius or its immediate Dependencies.	So much as has not been repealed.
Bengal Regulation XVII. of 1816.	For the occasional Revision of the regular Police and Jail Establishments; for the due support and Regulation of the Establishments of chokeedars; for amending the Rules in Force for the Appointment and Removal of Police Officers; for modifying the Constitution of the Offices of the Superintendents of Police; and for reducing the Miscellaneous Business of Courts of Circuits, and Court of Nizamut Adawlut.	Sections 14 and 18.
Bengal Regulation III. of 1826.	For extending to Dewanny prisoners some of the Provisions in Regulation XIV., 1816, and for modifying the Rule contained in Section 3, Regulation IV., 1816.	The whole.
Bengal Regulation IV. of 1833.	To provide more effectually for the Management of Convicts sentenced to Labour and employed on the Roads or Public Works under Superintendents or their Assistants appointed by Government, and to enable those officers to maintain good Order and Discipline among the Convicts and their Guards.	The whole.
Bengal Regulation II. of 1834.	For abolishing Corporal Punishment; for substituting a Fine in certain Cases for a Sentence of Labour; and for the gradual Introduction of a better System of Prison Discipline.	So much as has not been repealed.
Act XVIII. of 1844.	For the better control and management of Gaols within the Bengal Presidency.	The whole.

ACT No. XXVII. OF 1870.

An Act to amend the Indian Penal Code.

Preamble.

For the purpose of amending the Indian Penal Code; It is hereby enacted as follows:

I. For Section 34 of the said Code, the following section shall be substituted:—

Liability for act done by several persons in furtherance of common intention.

"34. When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone."

II. For Section 40 of the said Code, the following section shall be substituted:—

"Offence."

"40. Except in the chapter and sections mentioned in clauses 2 and 3 of this section, the word 'offence' denotes a thing made punishable by this Code.

"In Chapter IV and in the following sections, namely, sections 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327, 328, 329, 330, 331, 347, 348, 388, 389 and 445, the word 'offence' denotes a thing punishable under this Code, or under any special or local law as hereinafter defined:

"And in Sections 141, 176, 177, 201, 202, 212, 216 and 441, the word 'offence' has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards; whether with or without fine."

III. Section 56 of the said Code shall be read as if the following proviso were added thereto:—

Proviso as to sentence for term exceeding ten years, but not for life.

"Provided that, where an European or American offender would, but for such act, be liable to be sentenced or ordered to be transported for a term exceeding ten years, but not for life, he shall be liable to be sentenced or ordered to be kept in penal servitude for such term exceeding six years as to the Court seems fit, but not for life."

IV. After Section 121 of the said Code, the following section shall be inserted:—

Conspiracy to commit offences punishable by Section 121.

"124A. Whoever within or without British India conspires to commit any of the offences punishable by Section 121, or to deprive the Queen of the sovereignty of British India or of any part thereof, or conspires to overawe, by means of criminal force or the show of criminal force, the Government of India or any local Gevernment, shall be punished with transportation for life or any shorter term, or with imprisonment of either description which may extend to ten years.

"*Explanation.*—To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof."

V. After Section 124 of the said Code, the following section shall be inserted:—

Exciting disaffection.

"124A. Whoever by words, either spoken or intended to be read, or by signs, or by visible representation or otherwise, excites or attempts to excite feelings of disaffection to the Government established by law in British India, shall be punished with transportation for life or for any term, to which fine may be

added, or with imprisonment for a term which may extend to three years, to which fine may be added, or with fine.

"*Explanation.*—Such a disapprobation of the measures of the Government, as is compatible with a disposition to render obedience to the lawful authority of the Government, and to support the lawful authority of the Government against unlawful attempts to subvert or resist that authority, is not disaffection. Therefore, the making of comments on the measures of the Government, with the intention of exciting only this species of disapprobation, is not an offence within this clause."

Addition to Section 131.

VI. Section 131 of said Code shall be read as if the following explanation were added thereto:—

"*Explanation.*—In this section the words 'officer' and 'soldier' include any person subject to the Articles of war for the better government of Her Majesty's Army, or to the Articles of War contained in Act V. of 1869."

Amendment of Sections 194 and 195.

VII. Sections 194 and 195 of the said Code shall be read as if, after the words 'by this Code,' the words 'or the the law of England' were inserted.

Amendment of Sections 222 and 223.

VIII. Sections 222 and 223 of the said Code shall be construed as if, after the word 'offence,' the following words were inserted (that is to say), "or lawfully committed to custody;"

and Section 222 of the said Code shall be construed as if the following words were added thereto (that is to say), "or if the person was lawfully committed to custody."

IX. After Section 225 of the said Code, the following section shall be inserted:—

Escape from custody for failing to furnish security.

"225A. Whoever escapes or attempts to escape from any custody in which he is lawfully detained for failing, under the Code of Criminal Procedure, to furnish security for good behaviour, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

X. After Section 294, and before Chapter XV of the Indian Penal Code, the following section shall be inserted:—

Keeping lottery-office.

"294A. Whoever keeps any office or place for the purpose of drawing any lottery not authorized by Government, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

"And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery, shall be punished with fine which may extend to 1,000 Rupees."

XI. Section 307 of the said Code shall be read as if the following clause were added thereto:—

Attempts by life-convicts.

"When any person offending under this section is under sentence of transportation for life, he may, if hurt is caused, be punished with death."

XII. After Section 304 of the same Code, the following section shall be inserted:—

"304A. Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

Causing death by negligence.

XIII. The following chapters of the same Code, namely, IV (*General Exceptions*), V (*Of Abetment*), and XXIII (*Of Attempts to commit Offences*) shall apply to offences punishable under the said Sections 121A, 294A and 304A, and the said Chapters IV and V shall apply to offences punishable under the said Sections 124A and 225A.

Application of certain chapters of Penal Code.

XIV. No charge of an offence punishable under any of the said Sections 121A, 124A and 294A shall be entertained by any Court unless the prosecution be instituted by order of, or under authority from, the local Government.

Order of local Government necessary to prosecution under Sec- 121A, 124A or 294A.

XV. Nothing contained in this Act shall be taken to affect any of the provisions of any special or local law.

Saving of special and local laws.

XVI. The first schedule hereto annexed shall be deemed to be part of the schedule to the Code of Criminal Procedure.

Schedule I to be part of schedule to Criminal Procedure Code.

XVII. The enactments mentioned in the second schedule hereto annexed are repealed to the extent specfied therein.

Repeal of enactments.

The Schedule to this Act has been amended by Section 16, Act XXVII. of 1870 and Schedule, as follows:—

XVI. The first Schedule hereto annexed, shall be deemed to be part of the schedule to the Code of Criminal Procedure.

THE FIRST SCHEDULE.

[*See* Section 16.]

Section.	Offence.	Whether Police may arrest without warrant or not.	Whether warrant or summons shall ordinarily issue in first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
121 A.	Conspiring to commit certain offences against the State.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Transportation for life or any shorter term, or imprisonment of either description for ten years.	Court of Session.
124 A.	Exciting, or attempting to excite, disaffection.	Ditto ...	Ditto ...	Ditto ...	Transportation for life or for any term and fine, or imprisonment of either description for three years and fine, or fine.	Ditto.
225 A.	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	May arrest without warrant.	Ditto ...	Bailable ...	Imprisonment of either description for one year, or fine, or both.	Magistrate of the District or Subordinate Magistrate of the First Class.
294 A.	Keeping a lottery office	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for six months, or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries ...	Ditto ...	Ditto ...	Ditto ...	Fine of 1,000 rupees ...	Ditto.
304 A.	Causing death by negligence	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for two years, or fine, or both.	Court of Session or Magistrate of the District.

[*See* Section 16.]

Section.	Offence.	Whether Police may arrest without warrant or not.	Whether warrant or summons shall ordinarily issue in first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
121 A.	Conspiring to commit certain offences against the State.	Shall not arrest without warrant.	Warrant ...	Not bailable ...	Transportation for life or any shorter term, or imprisonment of either description for ten years.	Court of Session.
124 A.	Exciting, or attempting to excite, disaffection.	Ditto ...	Ditto ...	Ditto ...	Transportation for life or for any term and fine, or imprisonment of either description for three years and fine, or fine.	Ditto.
225 A.	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	May arrest without warrant.	Ditto ...	Bailable ...	Imprisonment of either description for one year, or fine, or both.	Magistrate of the District or Subordinate Magistrate of the First Class.
294 A.	Keeping a lottery office	Shall not arrest without warrant.	Summons ...	Ditto ...	Imprisonment of either description for six months, or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries ...	Ditto ...	Ditto ...	Ditto ...	Fine of 1,000 rupees ...	Ditto.
304 A.	Causing death by negligence	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for two years, or fine, or both.	Court of Session or Magistrate of the District.

THE SECOND SCHEDULE.

[*See* Section 17.]

Number and year.	Title.	Extent
Statute 9 Geo. IV., cap. 74.	An Act for improving the administration of criminal justice in the *East Indies*.	The whole Act 1 to 10 (inc 21, 23 to 26 51, 52, 56 a
Act V. of 1844. ...	An Act for the suppression of all lotteries not authorized by Government.	The whole.
Act IV. of 1867. ...	An Act to enlarge the meaning of the word "offence" in certain Sections of the Indian Penal Code, and for other purposes.	Ditto.

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